



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne

Annual Report 2007/ 2008

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**HUMAN RIGHTS
CORRECTS WRONGS**



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discrimination
racism
sexism
discrimination
sexism
harassment
assault

Your Rights are on the Wall



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June 27, 2008

The Honourable Chris Bentley
Attorney General
720 Bay Street
Toronto ON M5G 2K1

Dear Minister:

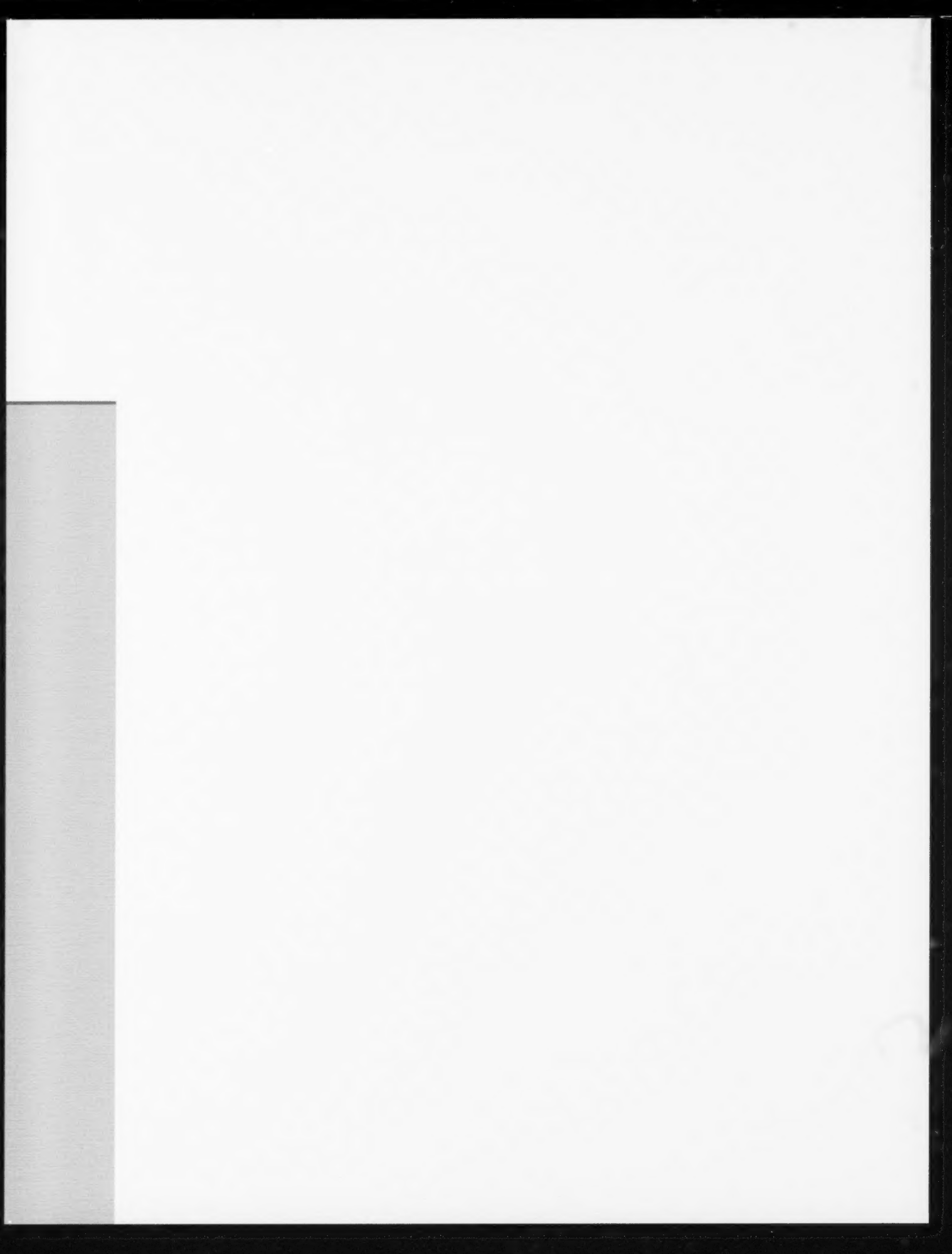
Under section 31(1) of the Ontario *Human Rights Code*, the Ontario Human Rights Commission is required to submit a report on the Commission's activities for the previous fiscal period by June 30th of each year, to be tabled in the Legislature.

In this regard, I am pleased to provide you with the Commission's Annual Report of its activities from April 1, 2007 to March 31, 2008.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Barbara Hall".

Barbara Hall, B.A, LL.B, Ph.D (hon.)
Chief Commissioner



**Ontario Human Rights Commission
Annual Report 2007/2008**

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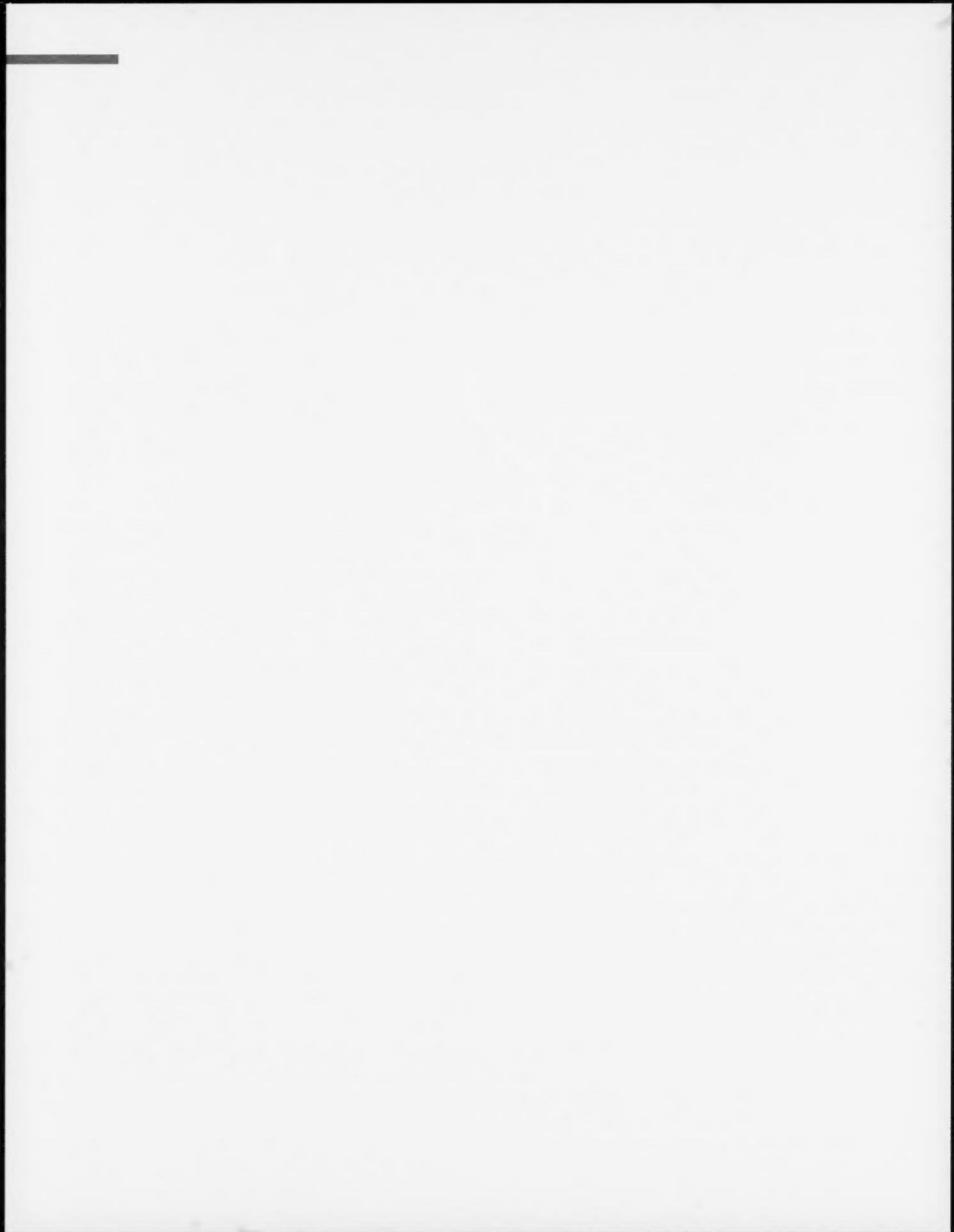


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A Message from the Chief Commissioner



This past year at the Ontario Human Rights Commission was the starting point of transition to a new human rights system for Ontario. An important focus of our work was — and continues to be — getting ready for the “new Commission.” As our mandate changes, and the transformation continues, we are restructuring the Commission to meet our new opportunities. Our strategic plan, to be released later this year, will help us set priorities and concentrate our energies. We already have a long list of things to do!

We will need to be clear about what we can accomplish within our resources, and we must carefully choose work that will offer the most benefit to the most vulnerable people in our society.

You can see some clues about what the future will look like in the projects we completed this year. For example, “Fishing Without Fear,” the report on our inquiry into assaults on Asian Canadian anglers, was the result of an extensive partnership that drew together community groups, law enforcement, provincial and municipal government and the media. We worked together to understand the real nature of the issue — and then to develop solutions. It was not just an OHRC project — it was an “everyone” project.

In the same way, our soon to be released report on rental housing and human rights is the result of extensive consultations with individuals, groups and communities across Ontario. We created a platform for people to speak and share their stories and concerns, to identify themes and recommend solutions, and to take collective action province-wide.

Both “Fishing Without Fear” and the housing consultation reflect the Commission’s increasing emphasis on being a catalyst for dialogue and positive change. Throughout last year, we promoted open, respectful debate on some issues that were sure to provoke both positive and negative responses. Examples include our ongoing discussions on Islamophobia, freedom of expression and the role of the media in shaping public perceptions, police record checks and their impact on people with mental health issues, and racial profiling.

These are just a few of the “tough” issues that we all need to address. Our mandate is to shine a light on them and promote positive debate as a starting point for change.

In the coming year, we will focus our efforts on larger systemic or public interest issues, and will work with communities to translate these into solutions for people across the province. That's the approach we took when working with transit providers across Ontario. We used a Tribunal decision to make sure persons with disabilities have the same access to transit across the province.

An essential part of this work will be building the foundations for new partnerships. We already enjoy many that are successful to use as starting points. For example, for three years in a row, we have worked with students from Seneca College to create marketing campaigns on human rights issues. The graphic designs on this year's theme, the transformation of the human rights system, are featured on the cover and throughout this Annual Report.

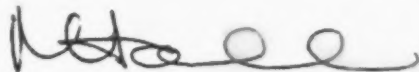
The reason for focusing on partnerships is simple — we can't do it alone. For the Commission to succeed in advancing human rights, we need to work with communities, government, the private sector and individuals across Ontario to make sure the human rights written on paper are the rights enjoyed by all Ontarians.

We could not have begun the transformation, or continued it this year, without the contributions of the talented staff team here at the Commission. Our staff continue to do excellent work in the midst of change. Some have moved on, but I hope to work with them again as they continue to share their commitment to human rights in their new roles in government and the community.

I have also been strongly supported by Commission members who bring their diverse experience, knowledge and passion for human rights to all of our work. Their positive vision for the new system is inspiring.

I say thank you — to staff, to my fellow Commissioners, and to the many people and groups in communities across the province, who have worked tirelessly to advance human rights. This kind of collective action is reflected in the activities outlined in this report — and is the foundation for the future as our transformation continues.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Barbara Hall', with a stylized, flowing script.

Barbara Hall, BA, LL.B, Ph.D (hon)
Chief Commissioner

The transformation continues

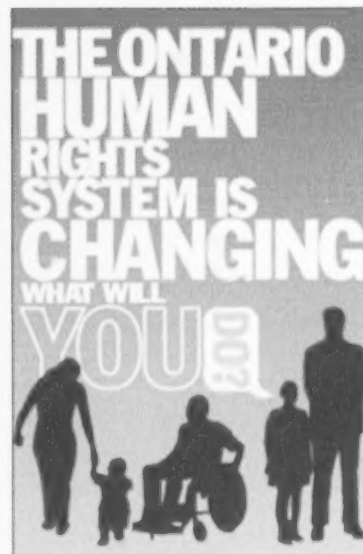
In 2006, *Bill 107 – The Human Rights Code Amendment Act* set the stage for a major transformation of Ontario's human rights system. This legislation, which comes into effect on June 30, 2008, will lead to fundamental changes in the way the Ontario Human Rights Commission operates.

On this date, the Commission's responsibility for processing new individual human rights complaints will shift to the Human Rights Tribunal of Ontario. The Tribunal will deal with all claims of discrimination (applications) filed under the Ontario *Human Rights Code*, and will help resolve these applications either through mediation or adjudication. A new body, the Ontario Human Rights Legal Support Centre, will offer independent claim-related services to individuals throughout Ontario. Services will range from information, advice and support to legal representation on applications before the Tribunal.

The Ontario Human Rights Commission will expand its work to promote, protect and advance human rights. The Commission's focus will be to address broad public interest or systemic issues of discrimination. Activities will include research and monitoring, policy development, and education and training. The Commission will also conduct targeted inquiries, and may initiate claims or intervene in important cases before the Tribunal. Through outreach, cooperation and partnership, the Commission aims to build an active human rights culture in Ontario.

During the past year, the Commission has begun to review and redirect its activities and services to reflect its new mandate, while continuing to process individual complaints. The Commission has also been working with the Tribunal and the Legal Support Centre to plan for the six-month transition period that begins when the legislation comes into effect on June 30, 2008. The Commission will stop accepting new claims after this date.

Thereafter, new claims can be made by filing an application directly with the Tribunal. The Commission will continue to process existing cases already in its system until the end of 2008. Any cases not resolved by



December 31, 2008 may be shifted to the Tribunal, at the option of the person bringing the claim. A fast track option to take existing cases to the Tribunal after June 30 will also be offered.

■ Adopting a new vision and mission

To make sure its operations match its new mandate, the Commission reviewed and approved its new vision and mission statement in 2007. This will serve as a benchmark for its future activities.

Our vision is:

An Ontario in which everyone is valued, treated with dignity and respect, and where human rights are nurtured by us all.

Mission:

The OHRC, an independent statutory body, provides leadership for the promotion, protection and advancement of human rights, and builds partnerships across the human rights system. In pursuit of our vision, we will:

- ▶ Empower people to realize their rights
- ▶ Ensure those responsible for upholding human rights do so
- ▶ Advocate for the full realization of human rights
- ▶ Work with our independent partners at the Human Rights Tribunal of Ontario and the Human Rights Legal Support Centre
- ▶ Develop and encourage the implementation of human rights policies
- ▶ Conduct research
- ▶ Monitor developments, trends, problem areas and case law involving human rights issues
- ▶ Use our legal powers to pursue remedies in the public interest
- ▶ Carry out public inquiries where appropriate
- ▶ Educate and build capacity
- ▶ Report on the state of human rights to the people of Ontario.

■ Consulting the community

To make sure the transformation is a success, the Commission will ensure that its operations offer ongoing opportunities for communities to have a voice in the issues it deals with and the services it provides. Community consultation was one of the first steps the Commission took in its strategic planning process.

During August and September 2007, communities across Ontario were asked to share their views on how the Commission could best fulfill its new mission and vision. Public sessions were held in Thunder Bay, Sudbury, Ottawa, Kitchener-Waterloo and Toronto and an on-line survey was posted to the OHRC website. Commission staff and other colleagues in government were also consulted. In total, more than 170 community members and individuals responded to questions about what issues and communities need urgent attention, and how best the Commission can carry out its different functions. The full details are published on the Commission's website.

As well, in the fall of 2007, the Ministry of the Attorney General sponsored four public meetings on *Bill 107* and the new human rights system. Community members had the opportunity to hear representatives from the Commission, the Tribunal and the new Legal Support Centre speak about their plans for the future. The sessions provided more valuable insight that is helping the Commission in its strategic planning.

■ Planning for our future

The Commission is in the process of preparing our strategic plan to guide its activities beyond the transition period and into the years ahead. While our Strategic Plan will be completed and released later this year, several key work areas have already emerged:

- ▶ Connecting with communities: partnership and education
- ▶ Focusing on systems and sectors
- ▶ Monitoring, inquiry and intervention.

This Annual Report includes highlights of Commission activities in each of these areas, as well as its work in addressing individual human rights claims.

Connecting with communities: partnership and education

■ Marketing awareness with Seneca College

One of the challenges of transforming Ontario's human rights system is to let Ontarians know about the changes. The Commission turned to the artists of tomorrow to help create a new vision of the changing system. For the third year in a row, the Commission teamed up with students and faculty from Seneca College's graphic design program at York University to develop human rights awareness campaigns. This year's goal was to develop concepts that would effectively communicate the transformation of the human rights system.

The students started with little knowledge of the human rights system. By the end of the project, with the support and mentoring of faculty and Commission staff, the students had a solid understanding of how Ontario's changing system promotes and protects human rights across the province. This understanding is reflected in the exciting, fresh designs each of seven groups created.

While the overall campaign was designed to reach all Ontarians, each group focused on a different



target audience, including young adults entering the workforce, working age adults, older workers, newcomers to Ontario, and underserved communities with little awareness of human rights protections. Other audiences included opinion leaders and human rights advocates, human resources and legal professionals, social workers and front-line staff. Finally, audiences included people who have made or might make human rights complaints, and the people and organizations that might have to respond to these complaints.

While only one of the proposed campaigns could be chosen for use in the transition campaign, all of the work was of such high quality that the Commission will be seeking other ways to use key elements in other projects. One example is

this Annual Report. The cover and each chapter feature the design and messaging of the various student teams. As a collective work, these campaigns send a youthful and strong message for human rights in Ontario.

■ Outreach to Aboriginal communities

As part of its consultation on discrimination in rental housing last Spring, the Commission heard from Aboriginal organizations and individuals and others on the disparities between Aboriginal people and the rest of the population in terms of access to adequate and affordable rental housing. The Commission also heard about screening barriers faced by prospective Aboriginal tenants, particularly women and youth, as well as other forms of discrimination that will be identified in its consultation report for release this year.

In May 2007, the Report of the Ipperwash Inquiry looking into the shooting death of Dudley George was released, identifying matters related to Ontario's *Human Rights Code*, the Commission's definition of racism, as well as the importance of data collection in bias-free policing. The Chief Commissioner wrote to the Premier offering the Commission's assistance to implement aspects of the report.

Meanwhile, the Commission continued to engage Aboriginal organizations through its law enforcement outreach initiative, including the Chief Commissioner speaking at "Systemic Racism in the Justice System" conference hosted by Grand Council Treaty No. 3 this past February in Kenora.

In August, the Chief Commissioner wrote a public letter to the Prime Minister urging the Government of Canada to reconsider its opposition to the draft Declaration on the Rights of Indigenous Peoples. The Declaration was adopted by the United Nation's General Assembly on September 13, 2007. Canada was one of four countries that voted against its adoption.

Marking its third year of participation, the Commission again hosted an information booth at the annual Canadian Aboriginal Festival and pow-wow in Toronto last November where staff handed out information and spoke to hundreds of visitors.

And the Commission continued its ongoing relationship with the Union of Ontario Indians, while looking forward to their involvement at the annual conference of the Canadian Association of Statutory Human Rights Agencies being hosted by the Ontario Human Rights Commission this Spring in Niagara.

■ Engaging with law enforcement

The Commission continued to engage with police organizations to support efforts to address human rights concerns. The efforts included public education and liaison activities with several police organizations including the Hamilton Police, the Ottawa Police, the Ontario Police College, and the First Nations Chiefs of Police Association.

The Commission also continued a major initiative to work with the Toronto Police Services Board (TPSB) and the Toronto Police Service (TPS) to support the TPS in identifying and responding to human rights issues and concerns, both within the organization and in its services to the public.

In July 2007, the three parties signed a Human Rights Project Charter, which formalized a three-year collaborative project to enhance realization of human rights and anti-racism in TPS. The Charter established project aims and aspirations, roles of the involved parties, administrative structures and identified four key areas for change focus:

- 1) recruitment, selection, promotion,
- 2) training, 3) accountability, and
- 4) public education.

As the project moved into its implementation phase in the later part of 2007, subcommittees were set up to focus attention on the four key identified areas. These committees, which included members from all three sponsoring organizations as well as public representatives, aimed to jointly identify specific issues and concerns, strategies to address these, and eventually oversee implementation of an intervention plan to be developed by June 2008.

The Toronto Police Service Human Rights partnership represents a new and promising collaborative approach to systemic human rights change that the Commission would like to pursue in other sectors as it continues in its new mandate this coming year.

■ Building coalitions with communities

The Commission, along with several other organizations across Canada, has lent its expertise and support to the Canadian Commission for UNESCO (United Nations Educational, Social and Cultural Organization) in developing and advancing a Canadian Coalition of Municipalities Against Racism and Discrimination (CMARD). The Coalition's goal is to establish a network of municipalities

interested in sharing experiences and expertise and committed to adopting a Plan of Action to address racism and discrimination within their jurisdictions. Coalitions are also being formed and expanded in Europe, Asia and the Pacific, Africa, Latin America and the Caribbean, and the Arab Region.

To date, eight Ontario municipalities have joined the Coalition: Windsor, Toronto, Thunder Bay, Oshawa, Tecumseh, Sudbury, Vaughan and Oakville. Twenty-six municipalities across Canada have joined.

In August 2007, the Commission took information about the Coalition to the Annual General Meeting of the Association of Municipalities of Ontario in Ottawa. In addition to having a display throughout the conference, the Chief Commissioner hosted a special breakfast discussion about the Coalition.

In October, a community coalition in Windsor – one of the first communities in Canada to commit to the Coalition – organized a rally that attracted over 100 youth and their families from the Windsor & Essex County area. The event featured information about race, ethnocultural relations and diversity, cultural music, entertainment and food. The rally's overall goal was to create awareness and

promote prevention of racism and discrimination in our communities, schools and organizations. At a booth designed under the theme of "I Can," the Commission ran an interactive activity inviting ideas on what youth can do to support CMARD in their community.

In February 2008, Commission staff attended a meeting of interested parties from the Region of Waterloo, including the cities of Waterloo, Cambridge and Kitchener, to promote the benefits of getting involved in CMARD.

The Commission also took part in a national meeting of the Pan-Canadian Working Group hosted by the Canadian Commission for UNESCO to discuss expanding the Coalition and involving new sectoral partners.

Through various initiatives, including its inquiry into assaults on Asian Canadian anglers, the Commission will continue to promote CMARD to municipalities across Ontario, as a positive and collaborative framework for addressing racism and discrimination.

■ Connecting across Canada

The Commission cooperates at both the international and the national levels to promote and advance human rights. On the

national level, the Commission continued to play an active role in the Canadian Association of Statutory Human Rights Agencies (CASHRA). The Commission serves on various committees and special projects, such as the team working on a website commemorating the 60th anniversary of the UN Universal Declaration of Human Rights, and will host the 2008 annual conference, which takes place in Niagara Region this June.

■ Saying it in sign language on the web

In October 2007, the Honourable David C. Onley, Lieutenant Governor of Ontario joined the Commission at an event hosted by the Canadian Hearing Society, to launch the Commission's first-ever sign language video.

The multi-format video, based on the Commission's latest brochure called *Disability and the Duty to Accommodate: Your Rights and Responsibilities under Ontario's Human Rights Code*, is available in American Sign Language and Langue des signes québécoise as well as English/French captioning and audio.

Disability is the number one ground of discrimination cited in complaints filed at the Commission. While the Commission has done much to raise awareness and

advance human rights for persons with disabilities, this video will help make that information more accessible to people who are deaf, deafened or hard of hearing.

The Canadian Hearing Society first suggested the idea of a sign language video and provided guidance. For the Record Productions Inc. produced the video, and Fourth Wall Media/One Stop Network graciously donated three months of advertising space for a sign language video announcement, a good example of what can be accomplished through collaboration.

■ Remembering our past

The Commission partnered with the Archives of Ontario to help develop and launch an on-line exhibit celebrating the life of Dr. Daniel D. Hill, first Director of the Ontario Human Rights Commission. The exhibit contains anecdotes, photos, letters, audio and video files, and offers a fascinating insight into the challenges Dr. Hill faced as he worked to achieve a culture of human rights in Ontario. The Commission website includes a link to this important piece of human rights history.

■ Public education highlights

As the Commission continues in its transformation to the new system, public education will play a more critical role. The Commission has been focusing more on events that deal with preventing *Code* violations and advancing human rights on a broad scale. It has also been seeking opportunities to enhance relationships with key sectors, such as housing and policing that are in line with its strategic planning. The Commission's work with Toronto Police Service is a good example of how education will be delivered more through community outreach, capacity building, cooperation and partnership initiatives.

The Commission continues to advance understanding of human rights through media inquiries and interviews, publications in various languages, new brochures on gender identity, disability and accommodation, family status and racism and racial discrimination, public awareness campaigns, information booth displays and its website.

In 2007-08, the Commission received 173 invitations and took part in 91 public education events. The Chief Commissioner spoke at a number of these events including:

- ▶ University of Windsor — Panel discussion, Access to Justice class, lecture to the faculty of education, and a joint public lecture with the Human Rights Tribunal on the new human rights system and the duty to accommodate
- ▶ OHRC's International Human Rights Day Celebration — with guest speaker Fo Niemi, Centre for Research-Action on Race Relations (CRARR) who spoke about Quebec's public consultation on reasonable accommodation
- ▶ Ontario Non-Profit Housing Association conference — discriminatory NIMBYism ("Not in My Back Yard") as a human rights concern and major barrier to housing
- ▶ Region of Waterloo Public Health, Babies Mean Business Forum — Family status and breastfeeding as human rights
- ▶ Cultural Coalition of Chatham-Kent — Bill 107 and Coalition of Municipalities Against Racism
- ▶ Law Society of Upper Canada & Ontario Bar Association — Respecting the Rights of Older Workers in a Post-Mandatory Retirement Environment.



Focusing on systems and sectors

■ Family status rights: spreading the word

In May 2007, the Commission released the results of its groundbreaking initiative on discrimination based on family status, and became the first jurisdiction in Canada to examine the human rights implications of barriers faced by families who are caring for children, aging parents or relatives, and family members with disabilities.

The Cost of Caring: Report on the Consultation on Discrimination on the Basis of Family Status and the Policy and Guidelines on Discrimination Because of Family Status highlight the results of the Commission's public consultation on family status, and provide employers, landlords and service providers with guidance on rights and responsibilities under the *Code*.

In the consultation, the Commission heard that caregivers are often at a significant disadvantage in gaining access to employment, housing and services. With changes to family structures such as the aging population, the movement of women into the paid workforce, and increasing numbers of lone-parent

families, family caregivers find themselves under increasing pressure. Workplaces have been slow to adapt to the changing realities of the family, and work-life balance issues are leading to a growing need for workplace accommodation. This new policy framework will help workplaces meet their responsibilities and recognize family status as a human rights issue.

■ Mental health discrimination and police record checks

In February 2008, the Commission released a *Draft Policy on Mental Health Discrimination and Police Record Checks* for public consultation. The Commission has found that certain requirements, policies and practices relating to non-criminal police record checks can have a discriminatory impact on persons with mental health-related disabilities seeking employment. Such practices may also affect other people identified by *Code* grounds.

Police record checks are much broader than criminal record checks. They also include information about non-criminal contact with police, such as transfers to a medical facility, or being a victim or witness.

The new policy will provide information on disability-related concerns about police record checks, how the *Code* applies, and on the responsibilities of all parties involved to make sure policies and practices are not discriminatory.

The Commission has posted the draft policy on its website, and is directly contacting a range of people and organizations across Ontario for input, including police services and their boards, the mental health sector, providers of services for vulnerable persons, volunteer sector organizations and government ministries. The finalized policy will be released this coming year.

■ Gender identity policy update

Last winter, the Commission completed a public consultation as a first step in updating its *Policy on Discrimination and Harassment Because of Gender Identity*. This update will reflect important case law advances and policy developments. One goal of the update is to make the policy more useful for persons who identify as transsexual, transgendered, intersex or gender variant. It will also include more information to help landlords, service providers and other organizations to understand their obligations and what steps they

can take to prevent discrimination, provide accommodation and to address complaints.

■ Helping organizations develop policies and procedures

In March 2008, the Commission released a new version of its *Guidelines on Developing Human Rights Policies and Procedures* (previously called *Developing Procedures to Resolve Human Rights Complaints Within Your Organization*). This policy contains the Commission's interpretation of provisions of the Ontario *Human Rights Code* relating to organizational policies and procedures to prevent and address human rights issues.

Employers, housing providers, governments and service providers all have an obligation to make sure that human rights are respected. This publication gives some practical guidance on creating the policies and procedures needed to make this possible. The publication provides valuable advice on developing effective and fair policies, procedures and practices to prevent human rights infringements and to respond to human rights issues, such as harassment, discrimination and accommodation needs.

■ Publishing our policies

In partnership with Carswell Publishing, the Commission released its 2008 edition of *Human Rights Policy in Ontario*. This print compendium of all the current Commission policies was published in November 2007. Electronic versions of the policies are also available on the Commission's website.

■ Examining human rights in rental housing

In the summer and fall of 2007, the Commission held a public consultation on discrimination in rental housing. Almost 130 organizations and over 100 individuals took part in consultation meetings held across the province. The Commission also received more than 60 formal submissions, and over 100 individuals wrote in or completed an on-line survey.

The input we received was substantive and thoughtful. The Commission will share the findings publicly in 2008, and will use what we learned to develop new policy guidelines to help tenants, landlords, government and other responsible institutions and service providers prevent and address housing discrimination.

In the meantime, the Commission continues to promote and advance

understanding of human rights in housing. Last October, Chief Commissioner Barbara Hall met with Mr. Miloon Kothari, the United Nations Special Rapporteur on Housing, and also took part in his public session. As well, through letters to the editor and a letter to a municipal council, the Commission continues to add a human rights perspective to issues such as regulating student housing, avoiding NIMBYism and discrimination against persons with mental health issues, and the illegal discriminatory impact of rent-to-income ratios.

■ Driving school accessibility

In late 2007, the Commission led discussions to increase accessibility of driver education for persons who are deaf, deafened and hard of hearing. Young Drivers of Canada, the Canadian Hearing Society, and the Ministry of Transportation have each made commitments that will improve access.

Young Drivers of Canada will:

- ▶ offer an on-line captioned co-driver video in 2008
- ▶ add sign language to its already captioned on-line co-driver course in the second quarter of 2008
- ▶ offer captioned novice driver course videos on-line in 2009, once new Ministry standards are completed

- ▶ develop a live on-line course with sign language interpretation once technology improvements and new novice driver curriculum changes are in place, projected for 2009.

The Canadian Hearing Society will provide assistance and services in areas such as:

- ▶ locating a suitable candidate fluent in sign language, who will be trained to YDC standards to deliver their course
- ▶ providing sign interpretation for the candidate if they need this accommodation
- ▶ notifying the deaf community about availability of this service.

The Ministry of Transportation will look for areas to remove legislative/regulatory barriers to on-line instruction, and to examine avenues for funding this project in future.

■ Submission to the College of Physicians and Surgeons of Ontario

In February 2008, the Commission submitted comments to the College of Physicians and Surgeons of Ontario, which is drafting policies on establishing and ending physician-patient relationships. In the past, the Commission has received complaints and heard community concerns about a number of screening and treatment practices. In this submission, the

Commission commended the College for including *Human Rights Code* grounds and issues in its draft policies, and suggested some revisions. One suggestion was to clarify that *Code* provisions relating to sex also include gender identity and expression.

The Commission also voiced concerns over the draft policy's handling of discretionary decisions made by doctors in accepting patients and providing care. The draft policy may in fact lead to confusion and to human rights complaints because doctors may see it as condoning practices that the Commission views as discriminatory. Areas that need a closer look include:

- ▶ when a practice is "open" or "closed" to new patients
- ▶ admitting patients to a closed practice
- ▶ the concepts of patient selection, scope, balance or focus of a practice
- ▶ considering time constraints when deciding to accept a patient
- ▶ clarifying "clinical competence" to provide care
- ▶ refusing to provide services in general, or providing particular information or health care based on religious or moral grounds.

The draft policies are a solid first step in addressing many of the barriers that prevent some Ontarians from equitable access to the health care services they need. The Commission will continue to work with the College towards the shared goal of equitable access to health care for all Ontarians.

■ Submission on public transit accessibility guidelines

For many people, access to transit makes the difference between isolation and loneliness, and full participation in the life of their community. That's why in August 2007 the Commission made a submission to the Accessibility Standards Development Committee of the Accessibility Directorate of Ontario, about its Initial Proposed Transportation Accessibility Standard under the *Accessibility for Ontarians with Disabilities Act, 2005 (AODA)*.

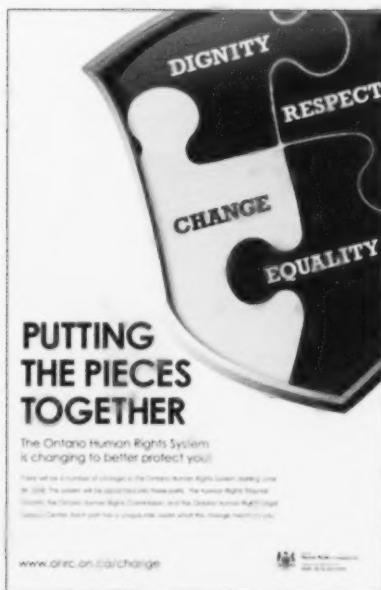
The Commission views these draft standards as a setback for Ontarians with disabilities in a number of areas. For example, most of the accessibility requirements for transportation vehicles apply only to new vehicles, leaving barrier removal on existing vehicles to the discretion of transportation providers. Because transportation

providers can still buy non-accessible second-hand buses, the standards would allow them to continue to make non-inclusive design choices.

Also, the proposed Transportation Standard effectively defers equality for persons with disabilities to an unacceptably distant future. For example, it does not require transportation providers to announce stops until 3 – 18 years after the standards are adopted, when precedents already exist for almost immediately putting these procedures or systems in place. A 2007 Human Rights Tribunal decision ordered the Toronto Transit Commission to begin announcing stops within 30 days of the decision.

While the AODA has great potential to positively affect the lives of persons with disabilities, it will not do so if the standards being proposed are less than existing rights. The Commission will continue to monitor and advocate for clear, enforceable standards for transit accessibility, adequate government funding for transit accessibility, and full compliance with the requirements of the *Ontario Human Rights Code*.

Monitoring, inquiry and intervention



■ Transit accessibility: calling all stops

In July 2007, *Lepofsky v. Toronto Transit Commission (TTC)*, the Human Rights Tribunal of Ontario found that the TTC's failure to ensure announcements of all stops on buses and streetcars violated the human rights of persons with disabilities, particularly riders with visual impairments.

With this precedent in place, the Commission is working to expand call-outs across Ontario. The recent Tribunal decision shows that a policy of announcing stops only upon request is not enough — the only way to ensure an accessible system is to call out all stops.

In a letter to operators across Ontario, the Commission asked transit services to review their accessibility policies and practices and inform the Commission on the steps they were taking to make sure all transit stops were announced. The Commission is reporting publicly in May 2008, and will then consider its next steps. Its goal is to have the effect of the Tribunal's decisions applied across Ontario, and make sure the duty to accommodate riders with disabilities is respected.

■ Safe schools for all

In April 2007, the Commission and the Ministry of Education signed a settlement to resolve a complaint about the *Education Act*. The Commission-initiated complaint alleged that the Act's safe schools provisions had a disproportionate impact on racialized students and students with disabilities. In this comprehensive settlement, the Ministry agreed to take a variety of critical steps, including legislative changes to remove the "zero tolerance" focus, and changes to curriculum, staffing, training and data collection policies.

Over the past year, the Commission has worked with the Ministry to implement the agreement including:

- ▶ serving on a working group, giving a keynote address and leading a concurrent session at the Ministry's symposium on safe and healthy schools in March 2008
- ▶ providing training and public education sessions on the settlement and what it means for schools and school boards
- ▶ providing input to the standing committee that reviewed changes to the *Education Act*, which was amended in June 2007.

The Ministry has made notable progress in meeting the terms of this settlement, and the Commission will continue to monitor and support the Ministry in taking the next steps towards safe and healthy schools.

Since the settlement in 2005 of its complaint initiated against the Toronto District School Board (TDSB), the Commission has continued to work with TDSB to adjust its safe schools policies and procedures to eliminate the potential for discrimination.

This work became even more critical in May 2007, when the TDSB had to cope with the shooting death

of a student in one of its high schools. The TDSB created the School Community Safety Advisory Panel, led by lawyer Julian Falconer, to inquire into the death of Jordan Manners at C. W. Jefferys Secondary School.

Commission staff offered advice and assistance throughout the panel's research and reporting stages. Examples of Commission involvement included providing a submission during the consultation process, and working with the panel to present "Breaking the Logjam: A Blueprint for Progress on School Safety" in November 2007. This one-day symposium offered an opportunity to take critical look at previous reports, recommendations and action plans not necessarily implemented over the last few years, and to consider what was needed to bring these to fruition.

In January 2008, the panel released a 1,000-page report that included dozens of recommendations to enhance equity, human rights and safety in Toronto schools. The Commission will continue to offer assistance to the TDSB on creating an equitable learning environment that is safe and effective for all students.

■ Fishing without fear: the Asian Canadian Angler Inquiry

In November 2007, the Commission launched an inquiry following media reports and community concerns about a number of incidents across south and central Ontario in which Asian Canadian anglers were physically or verbally assaulted while fishing.

The Inquiry, launched in partnership with the Metro Toronto Chinese and Southeast Asian Legal Clinic (MTCALC), invited people who had either encountered or witnessed incidents while fishing to share their experiences by calling a telephone hotline or completing an on-line survey. The Commission received over 30 accounts from communities in the areas of Aurora and Richmond Hill, Ottawa, and Lake Huron. The majority of submissions came from three areas: Lake Simcoe, Peterborough, and the Rideau Locks, all popular areas for locals and tourists who enjoy water sports, including angling.

In a December 2007 preliminary report, the Commission highlighted the role of racism in these events, citing accounts of racial harassment, ranging from verbal assaults using racial slurs, to destruction of fishing equipment, to stone-throwing. Racialized anglers felt their physical and psychological

safety and integrity threatened, and in some of the cases under police investigation, they were subjected to physical violence.

The report also outlined the profound impacts of the incidents on persons involved, their friends and families, and the Asian Canadian community as a whole. Anglers who contacted the inquiry expressed a sense of helplessness or fear of reprisal in reporting incidents to authorities.

A number of submissions raised concerns about conserving and protecting fish stocks. This is important in environmental terms, and is also vital to the livelihoods of many Ontarians. However, it was disturbing that many submissions raising conservation concerns showed the very kind of stereotyping and name-calling that the Commission is fighting against. The Commission was also concerned that Asian Canadian anglers were viewed as outsiders in relatively homogeneous communities and assumed to be breaking the law. In fact, there was no evidence of illegal fishing in any of the cases investigated by police.

In the first months of 2008, the Commission met with various organizations, including police services, municipal governments, provincial ministries, school boards, community organizations and

fishing/sporting groups to create an action plan to address the root causes and prevent these kinds of incidents from happening in the future. A report outlining over 50 commitments is being released in May 2008.

■ Raising concern about Islamophobia in the media

In March 2008, the Commission had before it complaints filed against Maclean's magazine related to an article entitled "The future belongs to Islam." The complainants alleged that the content of the article and the refusal by Maclean's to provide space for a rebuttal violated their human rights. The Commission found the matter not to be within its jurisdiction for dealing with a complaint.

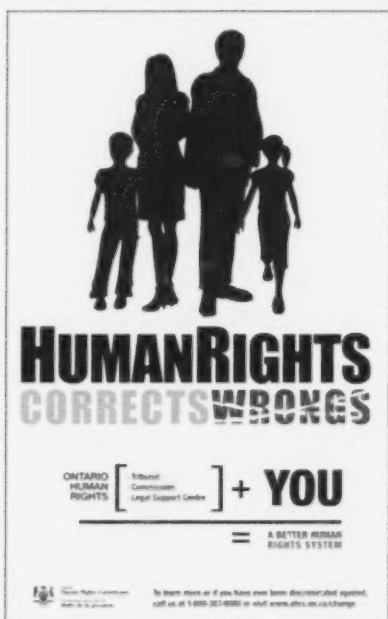
At the same time, the Commission has a broader role to speak out on

issues that may cause tension and conflict or discrimination against protected groups. The Commission strongly condemns any stereotyping of racialized communities, including Islamophobic portrayals of Muslims, Arabs and South Asians, as being contrary to the values enshrined in our human rights laws.

Freedom of expression is a cornerstone of our democracy, but it is just one of many rights included in the *Canadian Charter of Rights and Freedoms*, such as freedom from discrimination. No single right is more important than another, and the enjoyment of one depends on the enjoyment of them all.

The human rights system exists in Canada, in part, to shine a light on prejudice and to foster debate and action. The Commission will continue to take an active part in encouraging dialogue and suggesting a way forward.

Addressing individual human rights complaints



The Ontario Human Rights Commission provides information to tens of thousands of Ontarians each year, helping individuals and organizations prevent or resolve human rights concerns.

Public contact with the Commission

Between April 1, 2007 and March 31, 2008, the Commission dealt with:

- ▶ 51,753 telephone inquiries
- ▶ 2,241 inquiries received by letter
- ▶ 655 in person visits

Caseload Overview

- ▶ The Commission began the fiscal year with 3,099 cases
- ▶ 3,491 new complaints were received (an increase of 1,154 or 49.3% over the 2,337 new complaints filed the previous year)
- ▶ 2,477 complaints were completed at the Commission, on average at 14.6 months (an increase of 359 or 16.9% over the 2,118 cases completed the previous year, due in part to the change in the complaints process introduced by the Commission in February 2007 that set out more stringent scheduling requirements for mediation and fact-finding meetings, and production of documents)
- ▶ 4,199 cases remained at year-end (1,100 or 35.4% more than the 3,099 cases it began the year with)
- ▶ Average age of the caseloads at year-end was 14.8 months (down from 16.4 months the previous year)
- ▶ 252 cases (6.1%) were over three years old at year-end (compared with 169 cases or 5.5% the previous year)

Of the 2,477 cases completed at the Commission:

118 cases or 4.8% were dismissed based on preliminary objections (s.34 of the *Code*), on average at 10.5 months, because:

- ▶ 1.1% could have been dealt with by another legislated body
- ▶ 1.5% were frivolous, vexatious, or made in bad faith
- ▶ 0.0% were outside the Commission's jurisdiction
- ▶ 1.3% were outside the *Code's* six-month filing requirement
- ▶ 0.9% contained some combination of the above

1,313 or 53.1% of cases were mediated or settled by the Commission or resolved between the parties, on average at 10.5 months:

- ▶ 708 or 28.6% were settled through early mediation without investigation, on average at 7.96 months.
- ▶ 317 or 12.8% were settled at the investigation stage, on average at 25.15 months

- ▶ 288 or 11.6% were resolved between the parties, on average at 15.8 months

513 cases or 20.7% were withdrawn by the complainant, some due to settlements between parties outside the Commission's process, on average at 7.5 months.

533 cases or 21.5% received a Commission decision based on the findings of its investigation (s.36 of the *Code*), on average at 24.2 months:

- ▶ 202 or 8.2% were dismissed because of insufficient evidence to warrant a Tribunal hearing, on average at 27.2 months
- ▶ 330 or 13.3% were referred to the Tribunal for a hearing, on average at 22.4 months (compared to 140 cases referred the previous year)
- ▶ 1 additional case was referred to the Tribunal after the Commission reconsidered a previous decision

Litigating cases

The Commission's litigation of cases before the Human Rights Tribunal of Ontario and at higher courts has been instrumental in representing the public interest, enforcing the *Code*, promoting the Commission's policies, negotiating, obtaining and enforcing strong public interest remedies, and setting precedents that help to advance human rights jurisprudence in Ontario, across Canada and internationally. Under the new human rights system, the Commission will continue to represent the public interest by conducting targeted public inquiries, and may initiate applications before the Tribunal or seek to intervene in important cases.



In 2007-08, the Commission was involved in:

- ▶ 142 cases resolved at the Tribunal, 124 or 87.3% of which were settlements
- ▶ 18 final decisions, 8 further decisions and 31 interim decisions from the Tribunal
- ▶ 1 decision from the Ontario Court of Justice
- ▶ 4 decisions on appeal from the Divisional Court
- ▶ 13 judicial review decisions from the Divisional Court
- ▶ 4 decisions on leave to appeal from the Court of Appeal
- ▶ 1 decision from the Supreme Court of Canada granting leave to intervene.

As of March 31, 2008, the Commission is currently litigating:

- ▶ approximately 650 complaints before the Tribunal
- ▶ 14 cases before the Divisional Court (11 judicial reviews and 3 appeals)
- ▶ 3 cases at the Court of Appeal
- ▶ 1 case at the Supreme Court of Canada.

Some of the significant settlements, decisions and court cases over the past year are included below.



■ Commission settlements

Commission-initiated complaint against the Ministry of Education

A settlement between the Commission and the Ontario Ministry of Education will promote school safety while ensuring that all students, including students with disabilities and racialized students, are given the opportunity to reach their full potential. The settlement follows a Commission-initiated complaint filed against the Ministry in July 2005, which alleged that the application of school discipline legislation and policies were having a discriminatory impact on racialized students and students with disabilities.

Commission concerns were based on submissions received during its Racial Profiling Inquiry, its consultation on disability issues in Ontario's education system, and an external report prepared for the Commission, which supported these concerns with evidence from Nova Scotia, the United States and Britain.

The Ministry has agreed to initiate or continue developing measures that will promote compliance with the *Code*. These include:

- ▶ acknowledging the widespread perception that the *Education Act* has a disproportionate impact on students from racialized communities and students with disabilities
- ▶ confirming the concept of "zero tolerance" has no place in the legislation, regulations or policies
- ▶ considering applying progressive discipline as an alternative to suspensions and expulsions
- ▶ requesting expanding the regulations on mitigating factors and requiring principals and school boards to consider such factors before suspending or expelling a student
- ▶ providing access to alternative education opportunities to suspended or expelled students
- ▶ supporting the collection of data on suspensions and expulsions and making this information available

- ▶ requiring significant training initiatives for principals, vice-principals and teachers on anti-racism, anti-discrimination, cultural awareness and disability accommodation, along with training on amendments to the safe schools provisions
- ▶ working with the Ministry of Training, Colleges and Universities to promote, advertise and recruit teachers from racialized communities, persons with disabilities and other under-represented groups
- ▶ holding a provincial Safe Schools Symposium with participation by the Commission following passage of any amendments
- ▶ reporting to the Commission each year on its progress in implementing the agreement.

Ontario Lottery and Gaming Corporation (OLG)

The Commission reached settlements in related complaints against the Ontario Lottery and Gaming Corporation (OLG) and two of its gaming operations. The complaints were filed by employees who alleged managers at Woodbine Racetrack Slots and Casino Sault Ste. Marie violated *Code* provisions on an employer's duty to accommodate staff experiencing disability. The employees alleged that they were required to return to work before their doctor recommended,

return to activities not advised by their doctor, and produce a doctor's note dated the same date as their absence due to medical disability.

The terms of the settlements will help ensure human rights are respected when applying corporate disability policies and procedures within all OLG workplaces, which employ nearly 8,000 workers at 23 locations. They also clarify that OLG and its gaming operators are responsible for the actions of third-party disability case management service providers.

Under these settlements, OLG will modify its policies to make sure that a request for medical documentation dated the same date as an absence is reasonable in the circumstances, given that an employee may not be physically able to see a doctor the same day. Corporate and management responsibility for maintaining confidentiality of medical and related information was also addressed.

OLG has agreed, within nine months, to hire an external consultant to review and update its disability accommodation policy, form a new independent review committee with both OLG management and staff, and develop an internal complaint mechanism, which the committee will oversee and monitor.

Within a year, OLG has agreed to train all staff members and its disability case management service provider in the new policy and complaints mechanism, with an emphasis on disability and the duty to accommodate, and focus training on the broad range of disabilities covered by the *Code* and the responsibilities of both OLG and its disability case management service provider under the legislation.

■ Decisions at the Human Rights Tribunal of Ontario

Brown v. Trebas Institute Ontario Inc.

This case involved a complaint filed by Delano Brown, who alleged the private post-secondary career college discriminated against him in his efforts to enrol in a Music Business Administration study program.

Mr. Brown, a blind student, required specially outfitted computer equipment and written course materials in alternative (electronic or audio) format. Although he passed the entrance test, was accepted into the program and paid his enrolment fee, former administrators testified that they either did not know how to pursue the matter of accommodation or did not consider it within the scope of their responsibilities,

and left these issues to Mr. Brown to arrange. They also denied Mr. Brown's request for an enrolment extension to complete arrangements for his disability-related accommodation needs and financial support.

The Tribunal found that Trebas Institute discriminated against Mr. Brown by failing to take appropriate steps to accommodate him and by denying his request to defer enrolment. Trebas Institute was also found to have misapprehended its legal obligation to remove barriers and take responsibility for the accommodation process.

The Tribunal ordered that Trebas must not apply its enrolment deferral policy in a way that would conflict with its duty to accommodate students with disabilities. Trebas is to make all inquiries necessary to ensure that written materials for courses offered by the Institute can be made readily available in formats accessible to persons with visual disabilities. The college was also ordered to designate a position in its administrative structure with primary responsibilities for meeting the accommodation needs of students with disabilities, and to ensure the training of that person in the principles of accommodating students with disabilities receiving educational services.

Nassiah v. Peel (Regional Municipality) Services Board

In February 2003, Peel Police were contacted to investigate a possible shoplifting allegation at a large department store in Mississauga. The Tribunal found that Ms. Nassiah, a Black woman, was subjected to a more intensive, suspicious and prolonged investigation because of her race.

The Tribunal found that Ms. Nassiah had been subjected to racial profiling. She had been wrongly apprehended by store security on suspicion of stealing a low-priced item despite her repeated and impassioned denials, and a Peel police officer conducted a discriminatory investigation that included:

- ▶ stereotypically assuming that a Black suspect might not speak English
- ▶ assuming that the White security guard was telling the truth and that the Black suspect was not, without properly looking at all the evidence, including a videotape of the alleged theft, which exonerated her
- ▶ adopting an "assumption of guilt" approach to the investigation by immediately demanding that Ms. Nassiah produce the missing item
- ▶ unnecessarily arranging for a second body search after the

first one had demonstrated that she did not have the allegedly stolen item

- ▶ continuing with the investigation, rather than releasing Ms. Nassiah, even after the second body search confirmed that she did not have the stolen item
- ▶ spending up to one hour pursuing an allegation of theft, in the face of fragile evidence, for an item worth less than \$10.

The Tribunal also found that the police officer subjected Ms. Nassiah to verbal abuse during the investigation, and threatened to take her to jail if she didn't produce the missing item. The police and store security ultimately released Ms. Nassiah after they concluded that they had made an error.

The Tribunal found that racial profiling is a form of racial discrimination, and that it is contrary to the *Human Rights Code* for police to treat persons differently in any aspect of the police process because of their race, even if race is only one factor in the differential treatment. The Tribunal noted the mounting evidence that this form of racial discrimination is not the result of isolated acts of individual "bad apples" but part of a systemic bias in many police forces.

In addition to awarding Ms. Nassiah \$20,000.00 in damages, the Tribunal's decision requires

Peel Regional Police Service to take the following systemic steps to address racial profiling and to prevent future discriminatory practices of a similar nature:

- ▶ develop a specific directive prohibiting racial profiling, which should make clear that if race plays any irrelevant part in the police decision, the action is prohibited
- ▶ hire an external consultant with expertise in racial profiling to assist in preparing the new directive and training materials
- ▶ ensure that all new recruits, current officers, the officer in this case, new and current supervisors are trained on the new directive, the social science literature on racial profiling and the current case law
- ▶ publish a one-page summary of this decision in its monthly police bulletin, outlining the Tribunal's findings and orders.

Lepofsky v. Toronto Transit Commission (TTC)

In July 2007, the Tribunal found that the TTC's failure to ensure announcements of all stops on buses and streetcars violated the human rights of persons with disabilities, particularly riders with visual impairments. It ordered the TTC to begin announcing bus route stops within 30 days. This follows a similar ruling by the Tribunal in July

2005 involving a complaint about the lack of stop announcements in Toronto's subway system.

The Tribunal ordered the TTC to take the following steps:

- ▶ drivers to announce all surface stops clearly and consistently
- ▶ develop an implementation plan within 15 days, and implement it within 30 days of the decision date
- ▶ offer educational seminars for drivers, supervisors and senior managers, and extend these to all future drivers, supervisors and senior managers
- ▶ amend job descriptions of applicable TTC employees to include the requirement to call out all stops, and that promotion or performance review decisions take into account an employee's performance related to disability accommodation and accessibility
- ▶ if the electronic system the TTC has selected does not achieve a minimum 98% success rate for calling out stops, after one year the TTC must revert to manual announcements until it can make sure automated announcements will exceed the 98%
- ▶ provide training for TTC Commissioners on the obligation of the TTC to persons with disabilities under the *Human Rights Code* and other legislation

- ▶ hold an open, accessible and publicized forum on transit accessibility and accommodation issues, within six months of decision, and then hold forums at least once a year for the next three years.

Lane v. ADGA Group Consultants Inc.

Mr. Lane was hired as a quality assurance analyst by ADGA Group Consultants Inc., an Ottawa-based company involved in contract government information technology services. A few days after he started his job, Mr. Lane advised his supervisor that he had bipolar disorder and required accommodation. The accommodation included monitoring for indicators that he might be moving towards a manic episode; contacting his wife and/or doctor; and occasionally allowing him to take time off work to avert a shift from pre-manic stage to a full-blown episode. His supervisor gave no assurances, but undertook to get back to him.

As Lane became more anxious about management's response to his accommodation request, he began to exhibit pre-manic symptoms. Although Mr. Lane's supervisor and manager were aware of this when they met with him a few days later, they did not address any of his needs, they did not consider putting the meeting

off to get more information, and they did not obtain legal advice. Instead, they immediately terminated his employment, which triggered a severe reaction that led to full-blown mania. Mr. Lane was hospitalized for 12 days, after which he experienced severe depression due to his inability to obtain other work. His financial position deteriorated, he had to sell his house, and his marriage ended.

The Tribunal held that management terminated Mr. Lane because of his disability and perceptions related to his disability, with virtually "no investigation as to the nature of his condition or possible accommodations within the workplace." The Tribunal also found that ADGA had breached the procedural duty to accommodate, and this itself constituted a form of discrimination. The Tribunal also rejected ADGA's argument that Mr. Lane had an obligation to disclose his disability during the hiring process.

The Tribunal awarded Mr. Lane \$35,000 as general damages; \$10,000 for mental anguish; a further \$34,278.75 in special damages, as well as pre- and post-judgement interest. The Tribunal ordered ADGA to establish a written anti-discrimination policy and retain a consultant to provide training to all employees,

supervisors, and managers on the obligation of employers under the *Code*, with a focus on the accommodating persons with mental health issues.

ADGA is appealing the decision to Divisional Court.

Bekele and Ontario Human Rights Commission v. Cierpich

Mr. Bekele, who identifies as Black, wished to purchase a unit in a co-operative apartment building. The building's bylaws require that prospective purchasers be approved by a majority of the Board of Directors. Ms. Cierpich was President of the Board at that time.

While it usually takes one meeting and at most seven business days for the Board to reach a decision, Mr. Bekele or his representative had to attend three different meetings. Approval was only granted after he threatened legal action, and the approval time was four times longer than the usual maximum.

The Tribunal found that race and colour were factors in this differential treatment. Incidents included the President demanding to see bank statements, based on the belief that Mr. Bekele was using drug money to pay for the unit, other Board members worrying that he was a member of Al-Qaeda, and the property manager fearing

that he would bring cockroaches into the building.

During and after Mr. Bekele's attempts to get approval, various residents within the building wrote letters to the Board raising concerns about racism within the Board and the building. These allegations were never substantively responded to.

Mr. Bekele originally filed a complaint against Ms. Cierpich, another Board member, the property manager and the building corporation itself, all but Ms. Cierpich settled during the Commission's investigation, and the Tribunal hearing proceeded against Ms. Cierpich only.

The Tribunal found that she had violated Mr. Bekele's rights to be free from discrimination with respect to the occupancy of accommodation. The Tribunal also found that as President of the Board, Ms. Cierpich violated the *Code* by failing to investigate or take action on allegations of racist comments being made in the building.

The Tribunal ordered Ms. Cierpich to pay Mr. Bekele \$8,000 in general damages and \$2,000 in damages for mental anguish, with prejudgement interest on these amounts. It also ordered that if Ms. Cierpich ever decides to run again

for election to the Board, she must attend a human rights training session, at her own expense, and must send a letter to the Commission notifying it of her intention to re-join the Board, and confirming she has attended the training.

Giguere and Ontario Human Rights Commission v. Popeye Restaurant and Landry

Ms. Giguere was in a common-law relationship with a man who was HIV-positive and also had Hepatitis C, when she began working at Popeye Restaurant in a town in northern Ontario. When she applied for the job, she was open about her partner's medical situation, and Ms. Landry, the restaurant owner, did not see this as a concern.

Two weeks later, Ms. Giguere was terminated because of customer complaints related to her common-law spouse, and the concern of customers that Ms. Giguere had or might contract the AIDS virus.

The Tribunal found that Ms. Giguere was fired because of her association with a person with a disability, and that a business owner is not entitled to terminate an employee because they feel their business will suffer because of the views of customers, where those views are related to proscribed grounds of discrimination.

During the Tribunal process, allegations arose that Ms. Giguere offered money to another person to provide certain testimony before the Tribunal. The Tribunal found that the complainant engaged in abuse of the Tribunal's process. Even though she had been discriminated against, the Tribunal refused to award Ms. Giguere damages because of these circumstances. Instead, it ordered the respondents to make a charitable donation of \$2,500 to an organization that provides services to people living with HIV/AIDS in the town, or that provides public education or outreach on HIV/AIDS issues. It also ordered the respondent to post *Human Rights Code* cards at the restaurant.

■ **Settlements at the Human Rights Tribunal of Ontario**

Because the Commission has carriage of the complaint at the Tribunal, settlements almost always involve the inclusion of strong public interest remedies. Since the Commission must sign Minutes of Settlement, it can negotiate for these remedies, particularly in cases that may initially appear to affect only the individual, but which in fact have a broader public interest component. Under the terms of each of these settlements, there was no admission of liability,

nor was there a withdrawal of the allegations.

Dodd v. 1301429 Ontario Inc. o/a Days Hotel and Conference Centre, Toronto Airport East

Days Hotel and Conference Centre, Toronto Airport East and hotel guest Barbara Dodd reached a settlement that will see the establishment of new fire safety practices for the hotel, and sets a positive example for using visual strobe light fire alarms for deaf, deafened and hard of hearing individuals in Ontario hotel accommodations.

Ms. Dodd, who is deaf, stayed at the Days Hotel for a special event. In the early morning, the fire alarm went off, unbeknownst to her and other deaf guests. Although it was a false alarm, the hotel did not have a visual fire alarm system in place to warn deaf patrons of a fire.

Days Inn agreed to install a strobe light fire alarm system in select locations of the hotel, including the lobby, restaurant, swimming pool area, ballroom, public washrooms and four selected guest rooms. Rooms equipped with visual fire warning devices will be reserved for people identifying themselves as deaf or hard of hearing until all others rooms are occupied. The hotel will also develop and implement policies and procedures for safely accommodating visitors with

hearing disabilities, in consultation with the Commission, Ms. Dodd and expert advisors.

Industry associations applaud the settlement, which will support their efforts to provide leadership and resources to their members to meet accessibility requirements.

Malkowski and Simser v. Alliance Atlantis Cinemas Partnership, AMC International Inc., Cineplex Entertainment LP and Rainbow Centre Cinemas Inc.

This settlement will increase the number of theatres with closed captioning systems so more people who are deaf, deafened and hard of hearing can fully enjoy theatre-going experiences in the same way as everyone else.

The settlement includes the installation of new closed captioning systems in multiple Ontario theatres. These installations will occur on a phased-in basis following a comprehensive selection and testing period of new commercially available closed captioning systems by the exhibitors. Most of the exhibitors have also agreed to add a closed captioning system to all new theatres opened in the province of Ontario. The agreement also includes the appointment of a monitor to oversee settlement obligations. The Commission is still

attempting to negotiate a settlement with Paramount Canada.

R. by litigation guardian R. v. Toronto District School Board, et al.

The complainant was a high school student who was diagnosed with behavioural disorders. The student alleged inadequate accommodation and unfair and harsh discipline by the School Board.

Despite being aware of the disability, the School Board suspended the complainant 13 times in 18 months. The majority of these suspensions were for "defiant," "oppositional" or "confrontational" behaviour that was related to the complainant's disability.

As a result of these suspensions, the student was transferred to a different school and required to sign a behaviour contract. The student was then expelled for an altercation. After attending an alternative program, the complainant returned to school in September 2004 for a short period of time and then dropped out of the school system.

The parties engaged in a lengthy mediation process that took more than 18 months, and involved seven mediation meetings, two mediators, a special education expert, an education coordinator and an independent psychiatrist.

During this process, the parties obtained an independent assessment of the complainant to determine accommodation needs, and ensured that the complainant was given access to interim educational opportunities.

As part of the settlement, the School Board agreed to pay for the services of an education assistant to provide a liaison between the complainant and education service providers including the TDSB; provide a computer to the complainant; and reimburse the complainant for Internet access for two years. It also agreed to update their training in accordance with *Bill 212* and its regulations, which require Boards to consider mitigating factors before deciding to suspend or expel. Finally, it agreed to meet with Commission staff with respect to an earlier settlement

■ **Cases in higher courts**

**R. v. Badesha
(Ontario Court of Justice)**

The Commission appeared as an intervener at the Ontario Court of Justice in Brampton. Mr. Badesha, a devout Sikh who, in observance of his faith, wears a turban, was charged with operating a motorcycle on a highway without wearing a helmet contrary to the *Highway Traffic Act*. Mr. Badesha was

seeking to be excused from this requirement for religious reasons.

The Commission intervened as the case involved the interpretation and application of Ontario's *Human Rights Code*, and took a position in support of Mr. Badesha's request for religious accommodation. The court found that the health and safety requirement of wearing a helmet outweighed Mr. Badesha's religious rights in this case. Mr. Badesha has appealed the decision.

1233065 Ontario Inc. (Ottawa Senior Chinese Cultural Association) o/a Ottawa Chinese Senior Association et al. v. Ontario Human Rights Commission and Huang (Ontario Divisional Court, Huang's motion for leave to appeal to the Court of Appeal denied)

The Ottawa Chinese Senior Association (OCSA) appealed the Human Rights Tribunal's decision which found that Falun Gong constituted a creed within the meaning of the *Human Rights Code*, and that the Ottawa Chinese Senior Association had discriminated against Ms. Huang for refusing her membership based on her creed.

The Divisional Court allowed the appeal on the basis that the OCSA did not have adequate notice of the proceedings, and sent the matter back to the Tribunal for a

new hearing. The Court did not comment on the merits of the appeal.

Attorney General for Ontario and Chief Coroner v. Ontario Human Rights Commission, Braithwaite and Illingworth (Divisional Court decision)

This was an appeal from the decision of the Honourable Peter Cory, sitting as a Human Rights Tribunal, in which he had found that Ontario's *Coroners Act* was contrary to the *Human Rights Code*, because it gave prisoners in jail an automatic inquest when they died behind bars, but denied an automatic inquest to involuntarily committed psychiatric patients who are confined to psychiatric hospitals.

The Court held that a reasonable person aware of the different purposes for which psychiatric patients are held in custody would not feel that their inherent human dignity has been impaired, and that the coroner conducts an individualized assessment in deciding whether or not to conduct an inquest.

Commission counsel and counsel for Braithwaite have filed a Notice of Motion seeking leave to appeal to the Court of Appeal.

Zubovits v. Ontario Human Rights Commission (Divisional Court decision on an Application for Judicial Review)

This was an application to judicially review a decision of the Commission. The Commission had decided that Mr. Zubovits' complaint could more appropriately be dealt with under the *Crown Employees Collective Bargaining Act*, and the *Labour Relations Act*.

Mr. Zubovits had entered into a settlement at the Grievance Settlement Board. However, he later sought to retract his consent to the settlement. The Commission in its decision noted that the applicant was a member of a union and through the two acts, he had access to a grievance procedure in which human rights violations could be fully arbitrated. The Commission noted that he had filed grievances concerning the same situation as referenced in his complaint, including harassment and dismissal from employment, and that a mediated settlement had been reached.

The Divisional Court upheld the Commission's decision. It held that the human rights issues raised in the complaint overlapped with his grievances and were addressed by the settlement. Significantly, the Court held that there does not have to be an arbitration under

another statute before the Commission concludes that the other statute is the more appropriate route for dealing with the complaint. The Court also acknowledged that Mr. Zubovits understood that the settlement included compensation for the human rights component of his complaint.

Mr. Zubovits has filed an application for leave to appeal to the Court of Appeal.

Ontario Human Rights Commission v. Dofasco Inc. (Divisional Court)

The Commission's appeal from the Tribunal decision in this case was dismissed.

The complainant had worked as a crane operator at Dofasco, but went off work with an injury. After approximately four years off the job, Dofasco offered her a switch-board operator's position and gave her a limited time to take the position. She did not take the job within the time provided, indicating that she wished to speak with her doctor first. The Tribunal made central findings of fact including that the complainant did not genuinely want to return to work at Dofasco. Rather, she wanted the Worker's Compensation Board to provide her with retraining to become an accountant, and the

Tribunal found her refusal to take the switchboard job when offered was unreasonable. The Divisional Court upheld the Tribunal's decision.

In addition, the Tribunal had found that the complainant's human rights complaint was filed for an improper purpose. On this basis, the Tribunal also ordered the Commission to pay substantial costs to Dofasco. The Commission argued that for it to be required to pay costs, there must also be Commission misconduct. The Court agreed with the Tribunal that Commission misconduct was not a pre-condition for an award of costs.

The Tribunal also dismissed one part of the complaint as an abuse of process for the Commission's delay in adding it as a ground to the complaint. The Commission was not successful in having this finding overturned on appeal.

List of decisions, settlements, judicial reviews and appeals

HRTO FINAL DECISIONS

GROUND

Bekele v. Cierpich (complaint upheld)	race, colour, ethnic origin
Benedetto v. Inco Limited, Garber, Callaghan (complaint dismissed on consent)	disability
Brown v. Trebas Institute Ontario Inc., Hood, Schreiner, Brandt, Bulmar (complaint upheld)	disability
Chard v. Newton (complaint upheld)	sex, sexual harassment
Dodds v. 2008573 Ontario Inc. o/a Sharks Sports Pub, Accardo and Accardo (complaint upheld)	sex
Dominques v. Fortino, Varbara (complaint upheld)	sex, sexual harassment
Earhart v. Nutritional Management Services Limited, Thompson, Burns, Lyonnais (complaint upheld in part and dismissed in part, no damages awarded)	sex, sexual harassment, reprisal
Giguere v. Popeye Restaurant, Landry (complaint upheld but no damages awarded to complainant)	association
Hassan v. Rizzuto Bros. Ltd., operating as Blue Line Transportation Ltd., Rizzuto (complaint upheld)	colour, race, harassment
Kertesz v. Bellair Property Management, Campagna (complaint upheld)	sex, harassment, reprisal
Lane v. ADGA Group Consultants Inc. (complaint upheld)	disability
Lepofsky v. Toronto Transit Commission (complaint upheld)	disability
Nassiah v. Peel Regional Police Services, Elkington (complaint upheld)	race
Pchelkina v. RE/MAX Crossroads Realty Inc., Tomsons (complaint upheld)	sex, sexual harassment
Romano v. 1577118 Ontario Inc. o/a La Luna by the Lake Restaurant, Piemontese (complaint upheld)	sex, sexual solicitation
Seguin v. Great Blue Heron Charity Casino (complaint upheld, notice of appeal in Divisional Court filed)	sex

HRTO FINAL DECISIONS**GROUND**

Szabo v. Casa Industries, Poley, Allison (complaint upheld)	disability
Wedley v. Northview Meadow Co-operative Homes Inc., Harvey (complaint upheld)	sex

HRTO FURTHER DECISIONS**GROUND**

Glover v. 571566 Ontario Inc. o/a Cadillac Tavern, 1528433 Ontario Ltd. c.o.b. Cadillac Tavern, Perin Sr., Perin Jr. (3 further decisions)	sex, sexual solicitation, reprisal
McKinnon v. Her Majesty the Queen in Rights of Ontario (Ministry of Correctional Services), Geswaldo, Simpson, James, Hume (2 further decisions)	race, ancestry, ethnic origin, harassment
Modi v. Paradise Find Foods Ltd., Aycha, Omarbach (2 further decisions)	creed, ethnic origin, place of origin
Quereshi v. The Board of Education for the City of Toronto and Central High School of Commerce	age, creed, sex, race

HRTO INTERIM DECISIONS**GROUND**

Aubertin v. Armand H. Couture Ltd., Couture	disability
Ball et al. v. Her Majesty the Queen in Right of Ontario as Represented by the Minister of Community and Social Services	disability
Boldt-MacPherson v. The Hoita Kokoro Centre, Hoita	sex, sexual solicitation, reprisal
Campe v. Borland Canada Inc., Borland Software Corp. Schmiedendorf, Corey	sex, reprisal
Davis v. City of Toronto	disability
Demelo v. Prog-Die Tool & Stamping Ltd., Almiron	sex, harassment
Dunham v. Calstone Inc., Schulz	disability
K.F. by his litigation guardian F.W.F. v. Dufferin-Peel Catholic District School Board, Vilorio, Lezon, and Peel Regional Police Services Board, Duffield	race, colour, age, reprisal
Giguere v. Popeye Restaurant, Landry	association

HRTO INTERIM DECISIONS

FOUND

Grosberg v. 2024757 Ontario Inc. o/a St. Louis Bar & Grill, Kassim	creed, ethnic origin, sex, reprisal
Hancock v. McKesson Canada Corp., Sedore, Kalchman, Varkul, Da Silva	sex
Haynes v. Ottawa-Carleton District School Board, White, Murphy, Wilson	colour, disability, race
Heintz v. Christian Horizons, Girling	sexual orientation
Hope v. Maplewood Painting, Wilson, Ferguson	sex, harassment, solicitation
King v. Toronto Police Services Board	sexual orientation
Lampi v. Princess House Products Canada Inc.	sex, sexual solicitation, reprisal
Lepofsky v. Toronto Transit Commission	disability
Lundy v. Kaparel Corporation, Schmid, Kuhlmann	age
Marakkaparambil v. Her Majesty the Queen in Right of Ontario as represented by The Minister of Health and Long-Term Care	place of origin
McHugh v. Casino Rama Services Inc., Hawkins, Calvert, Johnston, Spurgeon, Pratt, Emms, Munson, Beaver, Chase	age, family status, sex, sexual orientation
Pchelkina v. Tomsons	sex, harassment
Persaud v. Toronto District School Board, Masciello, Rosen, Corner, Evely, Greenaway (2 interim decisions)	colour, race
Pieters v. The Liquor Control Board of Ontario, Store 568	race, colour, ethnic origin
Plummer v. Turtle Island Recycling Corporation, Anagnostakos, Waltonk, Reddy	disability, harassment
Savoy v. Aya Kitchens & Baths Ltd., Hoang, Wahab	disability, sex
Sigrist and Carson v. London District Catholic School Board, Clarke, Gillies, Rapai, Grand, Kavelaars, Paparella, Nugent, Desalaiz	disability
Sinclair v. Corporation of the City of London	citizenship, place of origin
Snow v. Honda of Canada Manufacturing, Matheson Korin, McCutcheon	disability, reprisal
Szabo v. Casa Industries, Poley, Allison	disability
Thomason v. Durham District School Board	disability

HRTO SETTLEMENTS**GROUNDS**

Al-Omairy v. The Kitchen Table Inc, Powel, Rumig	creed, ethnic origin, place of origin
Andrews v. Ritz Plastics Ltd., Wright, Gaffney	disability
Antwi v. Vocational Pathways Inc., Aldrich, Orsi, Brown	disability
Assefa v. 753901 Bristish Columbia Ltd. o/a The Westin Harbour Castle	family status, reprisal
Barker, Malkowski, Simser v. Cineplex Entertainment Limited Partnership, Alliance Atlantis Cinemas Partnerships, AMC Entertainment International Inc., Rainbow Centre Cinemas Inc., Universal Studios Canada Inc.	disability
Barrett v. Craiglee Nursing Home Ltd., McDougall, McDougall-Burrell	disability
Berard v. The Corporation of the Township of Horton, McLaren	disability
Bidwell v. Irving Tissue Corporation	disability
Blevis v. Ottawa-Carleton District School Board, McCoy, Beer, Viney	marital status
Bourdeau v. Her Majesty the Queen in Right of Ontario as Represented by the Minister of Community Family and Children's Services	disability
Bovingdon v. 2013134 Ontario Limited o/a Quizno's Subs, Hunt	disability
Buder v. Dynatec Corporation, Simms, Patry	disability
Busch by his next friend Holtz-Busch v. Sudbury Catholic School Board, Zaher, Csinos, MacDonald, Stewart	disability
Clements v. Grainharvest Breadhouse Inc., Wurm	marital status, association
Collet v. Atlantis Realty Services Inc., Hovey	age
Costie v. Nuttal Pharmacy Services Ltd. o/a Shoppers Drug Mart, Nuttal	disability
Countryman v. Manpower Services Canada Ltd aka as Manpower Inc., Russell, Temmenbaum	age
Crombie v. Rip's Sleepy Hollow Ltd., Hodgson, Hodgson	association, disability
Dalle Sasse v. A Touch of Health, Berard	sex
Dalli v. Braithwaite	disability

HRTO SETTLEMENTS
GROUND

Demelo v. Prog-Die Tool & Stamping Ltd., Almiron	sex, sexual solicitation
Dodd v.1301429 Ontario Inc. o/a Days Hotel & Conference Centre – Toronto Airport East	disability
Downer v. Carma Industries Inc., Williams, Williams	disability, reprisal, sex
Dublin v. Montessori Jewish Day School of Toronto, Nashman	disability
Dunham v. Calstone Inc., Schulz	disability
Dynes v. Bereskin & Parr, Langton, Sarginson, McGiffin	disability
Eisenhut v. Tropicana, McAllister	association, race, reprisal
Ellis v. T.E. Smith Transport and Logistics Ltd. o/a Northview Bar & Grill, Smith	sexual orientation
Gardezi v. Loyalist College, Hime, Callahan, Washburn, Whalen, Cudmore	ethnic origin, race
Garrelhas v. ICE Consultants Inc., Bain, Wright	disability
Gonsalves v. Sun Pac Food Ltd., Kuhner	reprisal
Goodman v. Bulk Systems (Ontario) Ltd., Salminen, Pawluk, Dalton	disability
Goray v. Trapper's Restaurant Inc.	disability
Gorski-Maker v. St. Paul University Metropolitan Andrey Sheptytsky Institute of Eastern Christian Studies, Lalonde, Onuferko, Nowakowski	sex
Greenhorn v. 621509 Ontario Inc. o/a Belleville Dodge Chrysler Jeep, Belch	sex
Guerard v. Services de Sante Chapleau Health Services, Gumbel	ancestry, ethnic origin, race
Gurzinski v. SKD Company	age, disability
Habibi, Ghaforian v. RCM Technologies Canada Corp.	ethnic origin, place of origin, race
Haddow v. Kruse Lawson & Haller, Haller	disability
Hancock v. Distributel Communications Ltd., Youden, Walsh	sex

HRTO SETTLEMENTS**GROUND**

Hayward v. Kitching	race, colour
Henderson v. Toronto Police Services Board	sex
Hoffman v. Chen	family status
Hou v. Estonian House, Isberg, Rimmel	ethnic origin, race
Huchla v. Meditech International Inc., Khan	sex, reprisal
Hussain v. Global Electronics Supplies Inc., Otterbein	disability
Hutchingame v. Ontario Provincial Police, Smith	association, family status
Jackson v. Collins & Aikman Plastics Ltd., Baldassara, Sinfield, Heinrich, MacDonald	race, colour, place of origin, reprisal
Jaeger v. William Lyon MacKenzie Housing Co-Operative Inc.	disability, receipt of public assistance
Johann v. Resort Holiday Group of Companies Ltd.	disability
Johnson v. Ultraframe North America Limited, Caswell, Ireland, Butler	colour, disability, race, reprisal
Lam v. Toronto Police Services Board, Alexander	disability, race
Laureano v. The Fairmont Royal York Hotel	disability
Lip v. Toyota Motor Manufacturing Canada Inc., Carol	disability
Lissitsyn v. Idea Technology Inc., Tran	age
Livingston v. Sun Pac Foods	disability
London v. Stansford, Phillips	disability, sex
Lugue v. IBM Canada Ltd.	disability
Lugue v. IBM Canada Ltd.	age
MacPhail v. Flowserve Canada Corp	disability
Mahamoud v. Italian Home Bakery Ltd., Rosetti, Malev, Rosetti	colour, creed, ethnic origin, place of origin, race, reprisal
Malone v. Faurecia Automotive Seating Canada Ltd.	disability

HRTO SETTLEMENTS	GROUND
Martin v. Canadian Mental Health Association – Ontario Division, Everett, Bregman, Marmen	disability
Masters v. Sharp Business Forms Inc., Sandhu	disability
Matwieszyn v. Quest Steel Inc., Visentin	disability
McGregor v. Her Majesty the Queen in Right of Ontario as represented by the Minister of Public Safety and Security, Young	association, family status
McKenzie v. Parkview Lanes Windsor Ltd., Prentice, Prentice	disability
Migwans v. Indian Friendship Centre of Sault Ste Marie	disability
Mihaljevic v. United Croats of Canada Branch Dr. A. Pavelic, Saric, Jurci	ancestry, association, ethnic origin, place of origin
Miranda v. Artistic Innovations Inc.	disability
Mitrovic v. 1294127 Ontario Ltd. o/a Thru-Way Trailer Centre Limited, Mawji	sex
Moazen v. Michael Annis o/a Pur Spa & Glo Tan, Annis, Warda	sex
Nangia v. Future Shop, Division of Best Buy Canada Ltd., Rosenfeld	sexual orientation
Nassar v. Toronto Dominion Meloche Monnex Inc., Alvisi	disability
Nixon v. Keg Restaurants Ltd., Vachon, Fried, Sockett	colour, place of origin, race
O'Neil v. Kavco Sales Limited o/a Canadian Tire Store #135, Kavanaugh, Lalibertie	disability
O'Reilly v. Burnett	age, disability, family status, marital status, receipt of public assistance
Paladino v. Armata Jr.	ancestry, race, reprisal
Parris v. Toronto Transit Commission, Crawford	colour, race
Patel v. Workplace Safety and Insurance Board	creed, disability
Patrick v. Irving Tissue Corporation	disability, family status
Pieters v. The Liquor Control Board of Ontario Store 568, ASP Inc.	colour, ethnic origin, race

HRTO SETTLEMENTS**GROUND**

Plummer v. Turtle Island Recycling Corporation, Anagnostastako, Walton, Reddy	disability
Portelli v. Atlas Hydraulics Inc., Law	sex, harassment, reprisal
Porter v. Glentel Inc.	sex, sexual solicitation, harassment
Powell v. Corporation of Haldimand County – Grandview Lodge	disability
Rasaratnam v. Sault College of Applied Arts and Technology	disability
Reynolds v. North American Marketing Enterprises Inc., o/a Consumer's Choice Home Improvements	disability
Riberio v. Global Precast Inc.	disability
Richard v. Toronto Catholic District School Board, Donovan, Jones	colour, race
Roberts v. Beatrice House, Chaisson	sex, sexual orientation
Roberts v. Toronto District School Board, Paterson	disability
Robinson v. CHEP Canada Inc., Paterson, Adlam	colour, ethnic origin, place of origin, race, reprisal
Ross v. Tobias House Attendant Care Inc, Jarosz, Potts, Duncan	disability, sex
Roxanne v. Faloon	disability
Savoy v. Aya Kitchens & Baths Ltd., Hoang, Wahab	disability, sex
Scott v. Barrie Fine Cars & Service Ltd., Angelucci	disability
Sidock v. Haley Industries Ltd.	disability
Sinclair, Craig, Fawcett, Coubrough, Gordon, Faysal v. General Motors Defense, a division of General Motors of Canada Ltd.	citizenship, place of origin
Sinclair-Day v. 9448685 Ontario Ltd. o/a Norval Meats, Amendola, Vincenzo	sex
Solomon v. Keg Restaurants Ltd. Vachon, Ibbitson, Sockett	colour, place of origin, race
Stark v. College of Physicians and Surgeons of Ontario	disability
Stewart v. Ontario Provincial Police Service, Bateman	sex

List of decisions, settlements, judicial reviews and appeals

HRTO SETTLEMENTS

GROUND

Sutter v. CIT Financial Services Ltd., Marandola	reprisal, sex, sexual solicitation
Swanson v. Centre for Technology Studies Canadian Career College Inc., Carvalho	sex, sexual solicitation
Tabobandung v. The Cadillac Fairview Corporation Limited/La Corporation Cadillac Fairview Limitee, Sharp, Kareem, Fry	ancestry, ethnic origin; race
Tadres v. Cameron J. and D. Beach Sales Ltd. o/a Canadian Tire Associates Store 399, Kurtz	disability
Thomason by his next friend Thomason v. Durham District School Board	disability
Vassell v. City of Toronto, O'Neill, Mlakar	colour, disability, race, reprisal
Vynogradova v. Caprani & Associates, Caprani	sex
Watson v. Ontario Racing Commission, Fines, Hicks, Stone	sex
Willis v. Labourers' International Union of North America, Dixon	colour, place of origin, race
Wilson v. 1343214 Ontario Inc. o/a Tucson's, Bourgeois, Ross	reprisal, sex, sexual solicitation
Woll-Morison v. Abuse Program of York Region, Huizer	disability, sex
Young v. USWA Local 7135, Pedron, Vassalli, Rozon	sex

ONTARIO COURT OF JUSTICE

R. v. Badesha (Commission intervention granted, Challenge to *Highway Traffic Act* mandatory helmet requirement dismissed)

JUDICIAL REVIEWS IN

DIVISIONAL COURT

Jazairi v. Ontario Human Rights Commission (motion to limit the involvement of the OHRC dismissed)

Jazairi v. Ontario Human Rights Commission (motion to remove Commission counsel from proceedings, dismissed)

Jazairi v. Ontario Human Rights Commission (motion to require production of Commission factum granted in accordance with counsel's undertaking)

Jazairi v. Ontario Human Rights Commission (two applications for judicial review dismissed)

Zubovits v. Ontario Human Rights Commission and Her Majesty the Queen in Right of Ontario as represented by the Minister of Environment and Energy (application dismissed, Zubovitz has brought a motion for leave to appeal to the Court of Appeal)

Weyerhaeuser Company Limited v. Ontario (Human Rights Commission) (costs award granted to Weyerhaeuser)

Razack v. Ontario Human Rights Commission (application dismissed)

Maduro v. Ontario Human Rights Commission and Neff Kitchens Manufacturers Ltd., Neff and Lam (application dismissed)

Batson v. Ontario Human Rights Commission and Zhao (application dismissed)

Coote v. Zellers et al. (Commission's motion to strike numerous respondents granted)

Coote v. Zellers Inc. (Applicant's motion to set aside decision striking out numerous respondents, dismissed)

Coote v. Assante Corporation (Commission's motion to strike numerous respondents and on procedural matters, granted)

Coote v. Assante Corporation (Applicant's motion to set aside decision striking out numerous respondents, dismissed)

APPEALS IN DIVISIONAL COURT

Ontario (Attorney General) and Chief Coroner v. Ontario Human Rights Commission and Mental Health Legal Committee, Empowerment Council and Psychiatric Patient Advocate Office (Attorney General and Chief Coroner's appeal granted)

Ontario Human Rights Commission and Jeffrey v. Dofasco Inc. (Commission's appeal dismissed)

Papa Joe's Pizza and Toufighjou v. Ontario Human Rights Commission, Metcalfe and Hoogerdijk (Papa Joe's appeal dismissed)

1233065 Ontario Inc. (Ottawa Senior Chinese Cultural Association) and Guo v. Ontario Human Rights Commission and Huang (Appeal granted, new hearing before Human Rights Tribunal of Ontario ordered)

COURT OF APPEAL

Weyerhaeuser Company Limited v. Ontario (Human Rights Commission) (Commission's application for leave to appeal dismissed)

Zubovits v. Ontario Human Rights Commission and Her Majesty the Queen in Right of Ontario as represented by the Minister of Environment and Energy (Zubovits' application for leave to appeal dismissed)

1233065 Ontario Inc. (Ottawa Senior Chinese Cultural Association) and Guo v. Ontario Human Rights Commission and Huang (Huang's application for leave to appeal dismissed)

Jazairi v. Ontario Human Rights Commission (motion for leave to appeal from an interim decision of Divisional Court dismissed)

SUPREME COURT OF CANADA

Keays v. Honda Canada Inc. (Commission's application for leave to intervene in appeal, granted)

Case data tables

Table 1: New Complaints Filed by Social Area and Grounds Cited
(Total = 3,492)

Accommodation	24	10	6	6	7	10	71	23	39	13	22	19	76	0	16	23	11	376	159	4.6%
Contracts	2	2	1	0	0	7	5	5	3	1	2	0	8	0	0	5	0	41	20	0.6%
Employment	246	150	23	25	24	126	1,404	351	174	87	261	5	761	11	378	758	80	4,864	2,473	70.8%
Services	53	78	18	4	8	121	381	149	38	14	79	8	379	4	53	85	21	1,493	752	21.5%
Vocational Associations	3	9	1	0	0	2	54	11	0	0	9	0	37	0	17	23	2	168	88	2.5%
Total Grounds	328	249	49	35	39	266	1,915	539	254	115	373	32	1,261	15	464	894	114	6,942	3,492	100%
Percent (%) of Grounds Cited	4.7%	3.6%	0.7%	0.5%	0.6%	3.8%	27.6%	7.8%	3.7%	1.7%	5.4%	0.5%	18.2%	0.2%	6.7%	12.9%	1.6%	100%		
Percent (%) of All Complaints Filed	9.4%	7.1%	1.4%	1.0%	1.1%	7.6%	54.8%	15.4%	7.3%	3.3%	10.7%	0.9%	36.1%	0.4%	13.3%	25.6%	3.3%			
	Age	Ancestry	Association	Breach of Settlement	Citizenship	Creed	Disability	Ethnic Origin	Family Status	Marital Status	Place of Origin	Public Assistance	Race & Colour	Record of Offences	Reprisal	Sex ²	Sexual Orientation	Sum of grounds	Total Complaints	Percent (%) of all Complaints

¹ Because complaints can involve multiple grounds, the sum by grounds exceeds the total for all complaints filed, and the corresponding percentages of total complaints exceed 100%.

² "Sex" includes sexual harassment, pregnancy, breastfeeding and gender identity.

Table 2: Monetary Damages in Settlements by Ground

Ground	Mediated			Conciliated			Total Cases Settled		
	Cases	Monetary Damages	Average	Cases	Monetary Damages	Average	Cases	Monetary Damages	Average
Age	48	\$424,844.00	\$8,850.92	29	\$248,268.93	\$8,561.00	77	\$673,112.93	\$8,741.73
Ancestry	26	\$216,877.00	\$8,341.42	20	\$205,592.55	\$10,279.63	46	\$422,469.55	\$9,184.12
Association	4	\$28,600.00	\$7,150.00	3	\$31,916.39	\$10,638.80	7	\$60,516.39	\$8,645.20
Breach of Settlement	3	\$52,061.85	\$17,353.95	0	0.00	0.00	3	\$52,061.85	\$17,353.95
Citizenship	5	\$7,139.00	\$1,427.80	4	\$27,142.55	\$6,785.64	9	\$34,281.55	\$3,809.06
Creed	29	\$174,462.00	\$6,015.93	20	\$119,537.55	\$5,976.88	49	\$293,999.55	\$5,999.99
Disability	313	\$2,980,889.40	\$9,523.61	147	\$1,625,266.67	\$11,056.24	460	\$4,606,156.07	\$10,013.38
Ethnic Origin	65	\$454,429.00	\$6,991.22	54	\$447,410.54	\$8,285.38	119	\$901,839.54	\$7,578.48
Family Status	31	\$179,217.75	\$5,781.22	19	\$187,016.39	\$9,842.97	50	\$366,234.14	\$7,324.68
Marital Status	17	\$111,720.00	\$6,571.77	9	\$139,916.39	\$15,546.27	26	\$251,636.39	\$9,678.32
Place of Origin	48	\$258,257.00	\$5,380.35	23	\$189,110.55	\$8,222.20	71	\$447,367.55	\$6,300.95
Public Assistance	6	\$30,350.00	\$5,058.33	1	\$2,500.00	\$2,500.00	7	\$32,850.00	\$4,692.86
Race & Colour	217	\$1,580,756.72	\$7,284.59	126	\$1,391,097.48	\$11,040.46	343	\$2,971,854.20	\$8,664.30
Record of Offences	3	\$133,000.00	\$44,333.33	1	\$500.00	\$500.00	4	\$133,500.00	\$33,375.00
Reprisal	76	\$794,727.14	\$10,456.94	48	\$409,301.39	\$8,527.11	124	\$1,204,028.53	\$9,709.91
Sex ¹	191	\$1,406,170.78	\$7,362.15	95	\$755,175.00	\$7,949.21	286	\$2,161,345.78	\$7,557.15
Sexual Harassment	n/a	n/a	n/a	18	\$109,450.00	\$6,080.56	18	\$109,450.00	\$6,080.56
Sexual Orientation	22	\$86,679.00	\$3,939.96	9	\$68,582.99	\$7,620.33	31	\$155,261.99	\$5,008.45
Total Cases	1,104	\$8,920,180.64	\$8,079.87	626	\$5,957,785.37	\$9,517.23	1,730	\$14,877,966.01	\$8,599.98

¹ "Sex" includes pregnancy, breastfeeding, and gender identity.

Table 3: Cases Completed or Referred, by Disposition and Grounds

(Total = 2,477)

Dismissed on the merits (s. 36) ⁴	16	22	2	0	4	12	98	47	13	5	31	5	109	1	23	51	9	5	453	202	8.2%
Dismissed on preliminary objections (Sec. 34)	14	6	1	3	2	10	63	17	9	4	13	2	42	5	13	20	0	5	229	118	4.8%
Referred to Human Rights Tribunal	20	9	4	2	4	72	167	33	7	8	23	3	76	0	26	47	11	6	517	331	13.3%
Resolved	40	18	4	0	2	15	156	41	19	8	30	5	103	0	36	71	6	9	563	288	11.6%
Settled	93	56	8	4	10	57	548	141	62	33	89	14	390	4	132	318	20	37	2,016	1,025	41.4%
Withdrawn	63	21	2	6	5	24	280	66	48	18	38	3	135	4	65	158	3	14	953	513	20.7%
Total ⁵	246	132	21	15	27	190	1,312	345	158	76	224	32	885	14	295	665	49	76	4,732	2,477	100%
Percentage (%)	5.2%	2.8%	0.4%	0.3%	0.6%	4.0%	27.7%	7.3%	3.3%	1.6%	4.7%	0.7%	18.1%	0.3%	6.2%	14.0%	1.0%	1.6%	100%		
	Age	Ancestry	Association	Breach of Settlement	Citizenship	Creed	Disability	Ethnic Origin	Family Status	Marital Status	Place of Origin	Public Assistance	Race & Colour	Record of Offences	Reprisal	Sex ⁶	Sexual Harassment	Sexual Orientation	Sum of grounds	Total Complaints	Percent (%) of all Complaints

⁴ Complaints dismissed under section 36 of the Code include cases where the evidence did not warrant a hearing, or the procedure was not appropriate. This includes 22 cases (less than 0.9%) that were closed by the Commission that were dismissed because the complainant did not participate in the Commission's investigation or the Commission was unable to contact the complainant.

⁵ Because complaints can involve multiple grounds, the sum by grounds exceeds the total for all complaints filed.

⁶ "Sex" includes pregnancy, breastfeeding, and gender identity.

Table 4: Cases Completed or Referred, by Disposition and Social Area
(Total = 2,477)

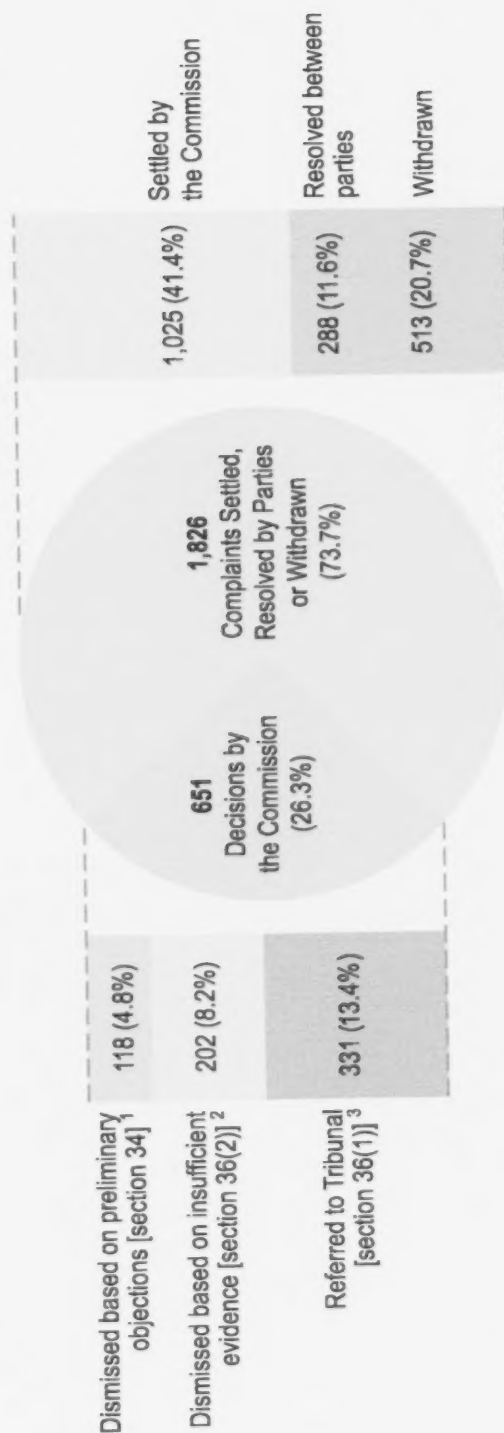
Withdrawn by the Complainant ⁷	23	1	408	72	9	513	20.7%
Settled by the Commission	35	2	871	113	4	1,025	41.4%
Resolved between Parties	15	1	229	38	5	288	11.6%
Dismissed based on Preliminary Objections (s.34) ⁸	3	1	59	50	5	118	4.8%
Referred to Human Rights Tribunal (s. 36)	4	0	126	193	8	331	13.4%
Dismissed on the merits (s. 36) ⁹	16	0	137	43	6	202	8.2%
Total	96	5	1,830	509	37	2,477	100.0%
Percentage (%)	3.9%	0.2%	73.9%	20.5%	1.5%	100%	
	Accommodation	Contract	Employment	Services	Vocational Associations	Total of Complaints	Percentage of all complaints (%)

⁷ Some as a result of a term of settlement.

⁸ These cases were dismissed after a Commission decision based on written submissions.

⁹ Includes cases where the evidence did not warrant a hearing, the procedure was not appropriate, or, in 22 cases (less than 0.9%), those where the complainant did not participate in the Commission's investigation or the Commission was unable to contact the complainant.

Chart: Cases Completed or Referred by the Commission 2006-2007
(Total = 2,477)



¹ These cases were dismissed after a Commission decision based on written submissions.

² Complaints dismissed under section 36(2) of the Code include cases where the evidence did not warrant a hearing, or the procedure was not appropriate. Also included are the 22 cases (less than 0.9%) where the complainant did not participate in the Commission's investigation or the Commission was unable to contact the complainant.

³ 330 complaints were referred to the Human Rights Tribunal of Ontario (Tribunal) under section 36(1) or section 33(6) of the Code. One further complaint, which had previously been closed by the Commission, was referred to the Tribunal after reconsideration under section 37 of the Code.

Financial Statement

Financial Position as at March 31, 2008 (\$'000)					
	2007-2008 Printed Estimates	Revised Budget March 31, 2008	Actual Expenditures March 31, 2008	2007-2008 Year End Variance from Revised Budget	
				\$	%
Salaries and Wages	10,463.4	11,247.6	10,909.3	338.3	3.01%
Benefits	1,297.5	1,347.2	1,394.9	(47.7)	-3.54%
Other Direct Operating Expenses (ODOE)	2,199.1	2,085.6	2,245.2	(159.6)	-7.65%
Total Expenses	13,960.0	14,680.4	14,549.4	131.0	0.89%

Our Commissioners



Barbara Hall Chief Commissioner

Barbara Hall was appointed Chief Commissioner of the Ontario Human Rights Commission in November 2005, after 40 years as a community worker, lawyer and municipal politician. She served three terms as a city councillor, and as Toronto's mayor from 1994 to 1997. From 1998 to 2002 she headed the federal government's National Strategy on Community Safety and Crime Prevention. Ms. Hall also practised criminal and family law, was a member of the Ontario Health Ministry's Health Results Team, and lectured nationally and internationally on urban and social issues. She has a strong record of bringing diverse groups together to build healthy communities.

Patrick Case

Patrick Case is the Director of the University of Guelph's Human Rights and Equity Office. A lawyer by training, his previous roles include Chair of the Canadian Race Relations Foundation, and Co-Chair of the Equality Rights Panel of the Court Challenges Program. Mr. Case teaches human rights courses at the University of Guelph and Osgoode Hall Law School. He was appointed to the Commission in November 2006.

Pierre Charron

Pierre Charron is a barrister and solicitor who is senior counsel in his own firm and also president of Charron Human Resources Inc, working in the field of harassment prevention and conflict resolution. Mr. Charron is a member of the Canadian Bar Association, Law Society of Upper Canada, l'Association des juristes d'expression française, Le Club Richelieu de Rockland, the Rockland Optimist Club, the Knights of Columbus, the Chamber of Commerce and the Royal Canadian Legion. He is also a former municipal councillor. Mr. Charron was appointed to the Commission in June 2005.

Ruth Goba

Ruth Goba is Women's Program coordinator and staff lawyer for the Centre for Equality Rights in Accommodation (CERA). She has taught disability issues at Ryerson University, and she clerked at ARCH: A Legal Resource Centre for Persons with Disabilities. Ms. Goba also worked in India on housing and land rights with both the Habitat International Coalition and the United Nations Special Rapporteur on the Right to Adequate Housing. She was appointed to the Commission in October 2006.

Kamala-Jean Gopie

Kamala-Jean Gopie has more than 30 years of experience as a teacher, librarian and education officer addressing anti-racism and ethno-cultural equity. She recently served as a member of the federal Immigration and Refugee Board. Her community service includes being President of the Board of the Urban Alliance on Race Relations. Ms. Gopie also sat on the Provincial Task Force on Race Relations and Policing, the City of Toronto Mayor's Committee on Race and Ethnic Relations, and received the Order of Ontario. She was appointed to the Commission in October 2006.

Alana Klein

Alana Klein is a Senior Policy Analyst with the Canadian HIV/AIDS Legal Network. She is a former lecturer and Associate-in-Law at Columbia University. Previously she was Law Clerk to Justice Louise Arbour at the Supreme Court of Canada, and a volunteer at the Chez Doris Day Shelter for Women in Montreal. She was appointed to the Commission in September 2006.

Raja Khouri

Raja G. Khouri is managing consultant at The Knowledge Centre, specializing in organizational effectiveness, community development and human resources. He is former president of the Canadian Arab Federation, where he advocated against discrimination and the erosion of civil liberties. Mr. Khouri directed a study of the Canadian Arab community and authored the book *Arabs in Canada: Post 9/11*. He has chaired conferences, given lectures and media interviews, and written commentaries in a variety of Canadian dailies and magazines. Mr. Khouri completed an appointment to the Hate Crimes Community Working Group before being appointed to the Commission in September 2006.

Fernand Lalonde

Fernand Lalonde retired from the federal public service in 2001 after serving in many roles including General Secretary of the National Joint Council, Executive Director of Appeals and Investigations for the Public Service Commission of Canada, and Director of Personnel Services, Parks Canada. Mr. Lalonde is a former President of the Canadian Public Personnel Management Association, and is currently a consultant providing services in union-management relations and dispute resolution. He was appointed to the Commission in May 2005.

Christiane Rabier

Christiane Rabier is currently Chair of the Department of Political Science and Vice-Dean of Social Sciences and Humanities at Laurentian University in Sudbury. Ms. Rabier is active within the

francophone community in Sudbury, and has worked on a program for francophone women to attend post-secondary studies. She served as a consultant with TV Ontario on Continuing Education, and as a volunteer with Canada's Special Olympics in 1998 and Operation Red Nose in 1999. Ms. Rabier was appointed to the Commission in April 1999.

Ghulam Abbas Sajan

Ghulam Abbas Sajan served as a senior management auditor with the Management Board Secretariat of Ontario, and was awarded a "Lifetime Achievement Award" in 2005. Previously, he was employed by KPMG in Uganda and the United Kingdom. An active member of the Shi'a Islamic Community, he was president of the Jaffari Islamic Centre and currently, among many other activities, is involved with Mosaic Interfaith Group, Markham Race Relations Committee and Jaffari Islamic Housing Corporation. In 2001, he was honoured with a Government of Canada award for outstanding service and contribution as a volunteer. Mr. Sajan was appointed to the Commission in May 2005.

Bhagat Taggar

Bhagat Taggar is a Chartered (UK) and Professional (Ontario) Engineer with diverse international community experience. He served as a vice chair of race relations, and a city and regional councillor in England, and as an engineer in Zimbabwe. In Canada, he was the chairperson of Panorama India, Lion's club member, Professor of Engineering at Centennial College and a business owner. Mr. Taggar was appointed by the Governor General of Canada (1996) as chairperson of the Employment Insurance Board for the Ontario regional division (Scarborough). He was awarded the Queen's Golden Jubilee Medal for community service 2002. Mr. Taggar was appointed to the Commission in May 2005.

Richard Théberge

Richard Théberge is a lawyer by training, a policy analyst and accessibility consultant. Previously with the federal government, he has analyzed and developed policies in connection with business and corporate law. He has volunteered with youth and disability communities and currently serves as President of the Ottawa Independent Living Resource Centre. Mr. Théberge was recognized as a patron of deaf youth by the Jules Leger Centre in Ottawa, and was awarded for his years of work with the Canadian Council of Independent Laboratories. He was appointed to the Commission in February 2002.

Maggie Wenté

Maggie Wenté is a lawyer with Olthius Kleer Townshend, representing First Nations and Band Councils. She has also worked with the Ontario Federation of Indian Friendship Centres and the University of Toronto Community Legal Clinic. Currently she is a board member of the Aboriginal Legal Services of Toronto and formerly Board Co-Chair of the Women's Counselling, Referral and Education Centre. She is a member of both the Canadian Bar Association and the Indigenous Bar Association. She was appointed to the Commission in October 2006.

Albert Wiggan

Albert Wiggan has been a chef and business owner for over 20 years, and has received several community service awards. He is a frequent speaker to young people at secondary schools on behalf of literacy and people with learning disabilities. He was appointed to the Commission in September 2006.